



# भारत का उत्तराधिकार The Gazette of India

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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में  
रखा जा सके

Separate Paging is given to this Part in order that it may be filed as  
a separate compilation

भाग II—खण्ड 3—उप-खण्ड (ii)  
PART II—Section 3—Sub-Section (ii)

(रक्षा मंत्रालय को छोड़ कर) भारत सरकार के मंत्रालयों द्वारा जारी किए गए सांसदिक आदेश और अधिसंचाराएँ  
Statutory Orders and Notifications issued by the Ministries of the Government of India (other than  
the Ministry of Defence)

कार्मिक, सोम विषेष तथा पेशन मंत्रालय

(कार्मिक और प्रशिक्षण विभाग)

आदेश

नई दिल्ली, 4 जनवरी 1991

का या 192 केन्द्रीय सरकार, दिल्ली विशेष गुरुकम स्थानान्तरालीय अधिनियम, 1946 (1946 का 25) की धारा 6 के माध्यम से धारा 5 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करने हांग गान्धी प्रदेश राज्य सरकार की मम्पति [विविध गुह (गम भी ग) विभाग जो आर टी. नी 2238 नारीख 13-8-1990 (झटाचार विवारण)] अधिनियम, 1947 और भारतीय दड सहित की विभिन्न प्रारंभों के अधीन दार्ढर्य अपराधों वी, जिनकी जावत यह अधिकार किया गया है कि वे इस दृष्टिकोण से संलग्न उपकारध मेर्यादित केन्द्रीय माका दृष्टि द्वारा अधिकारियों द्वारा जाने वाले 19 मामलों मेर्यादित सरकार केन्द्रीय सरकार नामाम के अधिकारियों और प्राइवेट व्यक्तियों द्वारा किया गया है, अन्वेषण के लिए दिनांक विषेष पुलिस स्थापन के मद्दतों वी अधिकारियों और अधिकारियों द्वारा अन्वेषण कर दिया गया है।

[संख्या 229/39/90—प वी री—II)

द्वारा ग्रहण गवित्र

प्रिण्टिंग

मामलों के प्रजीकरण के लिए नियमित एम आई आर के बारे में विवरण

प्रजीकरण नियम सहित एम आई आर  
म आर कानून की तारीख

अधिकार का नाम

1 मार्गीय दण्ड संहिता दी धारा 1 श के पुलिस राव, प्रबन्धक, 120-व 420 और जाटाचार आदा वैरू, विजयवाला (केन्द्रीय निवारण अधिनियम की धारा 13 अधिकारी उपक्रम)।
(1) (व) मेर्यादित धारा 2 श्री मकर गजुपार पुल 13 (2) के अन्वेषन एम आई आर मत्यानारायण प्रबन्ध निवेशक, म 38/88-विषायागत्तनम दि 10-12-99

1	2	1	2				
2. भारतीय दण्ड संहिता की धारा 120-ख, और भ्रष्टाचार निवारण अधिनियम की धारा 5 (1) (घ) के अन्तर्गत एस आई प्रार सं. 42/ 8-विशाखापत्नम, वि. 23-12-88	1. श्री एम. सुनेश्वराय, जोनल प्रबन्धक, एफ. सी. आई. मद्रास (केन्द्रीय सरकारी उपक्रम) 2. श्री के. एल. एन. सर्मा, संयुक्त प्रबन्धक (वार्गिजिक) एफ. सी. आई. जोनल कार्यालय मद्रास (केन्द्रीय सरकारी उपक्रम) 3. श्री जी. नम्रियैरेय, प्रबन्धक (एफ. एण्ड ए), जोनल कार्यालय एफ. सी. आई. मद्रास, (केन्द्रीय सरकारी उपक्रम) 4. श्री आर. नारायणस्वामी, जोनल प्रबन्धक एफ. सी. आई., मद्रास (केन्द्रीय सरकारी उपक्रम) 5. श्री जी. सी. कृष्णामूर्ति, वरि. श्रीरोप प्रबन्धक, एफ. सी. आई. हैदराबाद (केन्द्रीय सरकारी उपक्रम) 6. श्री टी. वी. सुभाराम, संयुक्त प्रबन्धक, (वित्त), एफ. सी. आई. केन्द्रीय कार्यालय, हैदराबाद (केन्द्रीय सरकारी उपक्रम) 7. श्री राजेन्द्रलाल, उप प्रबन्धक (ठेका), एफ. सी. आई., केन्द्रीय कार्यालय, हैदराबाद (के. स. उपक्रम) 8. श्री जी. बालकृष्ण राव, उप प्रबन्धक (वित्त), एफ. सी. आई केन्द्रीय कार्यालय, हैदराबाद (के. स. उपक्रम) 9. श्री डी. बी. रमेया, विशाखापत्नम का अधिकृत प्रतिनिधि एफ. सी. आई. मजदूर ठेका कीप्रापरेटिव सोसाइटी, विशाखापत्नम (गैर-सरकारी व्यक्ति) 3. भारतीय दण्ड संहिता की धारा 120-ख, 420 के पर्नांग एम. प्राई प्रार सं. 46/88-विशाखापत्नम वि. 20-12-88	1. श्री ए. सुर्यनारायण, पुर्व शास्त्र प्रबन्धक, कारपोरेशन बैंक, गुंटूर (के. स. उपक्रम) 2. श्री मां. श्रीकेश्वर राव, श्री हेंगडे के अधीन कार्यरत (गैर-सरकारी व्यक्ति) 3. श्री हेंगडे प्रोपराइटर, मलनाड लीक टुर्को, गुंटूर (गैर-सरकारी व्यक्ति) 4. श्रीमती वासुदेव आर. हेंगडे पक्षी श्री हेंगडे मैसर्स मदन लीक टुर्को क., गुंटूर (गैर-सरकारी व्यक्ति) 5. श्री जयगम शेट्टी, श्रीमती वामधा प्रार. हेंगडे के आई, गुंटूर (गैर-सरकारी व्यक्ति) 4. भारतीय दण्ड संहिता की धारा 120-ख, 420 और भ्रष्टाचार निवारण अधिनियम की धारा 5 (1) (घ) के साथ पठित धारा 5 (2) के अन्तर्गत एस आई प्रार सं. 6/89-विशाखापत्नम, विनाक 8-2-89	1. श्री बी. एन. बी. नायडू, मन्नार बैंक आफ इंडिया, भृश-पल्लीगुडम (के. स. उपक्रम) 2. श्री पी. राजाराव, प्रोपराइटर, गौथमी एंड कैमिकल्स, घृश-पल्लीगुडम 2. श्री पी. वी. रामकृष्ण राव (गैर सरकारी व्यक्ति) 4. श्रीमती पी. लक्ष्मी रानी, सामेवार, मैसर्स लक्ष्मीट्रेस्ट, घृश-पल्लीगुडम (गैर सरकारी व्यक्ति) 5. श्री ए. वी. कृष्ण राव, प्रोपराइटर श्री कृष्ण कर्टी. घृश-पल्लीगुडम (गैर सरकारी व्यक्ति) 5. भारतीय दण्ड संहिता की धारा 120-ख, 420 और भ्रष्टाचार निवारण अधिनियम, की धारा 5 (1) (घ) के साथ पठित धारा 5 (2) के अन्तर्गत एसआईप्रार सं. 7/89-विशाखापत्नम विनाक 9-2-89	1. श्री बी. सत्यनारायण, शास्त्र प्रबन्धक, बैंक आफ इंडिया, राजा मुंद्री (के. स. उपक्रम) 2. श्री पी. सत्यनारायण, प्रोपराइटर मैसर्स प्रीमियर फार्ट, के. स. राजा-मुंद्री (गैर सरकारी व्यक्ति) 6. भारतीय दण्ड संहिता की धारा 120-ख, 420 और भ्रष्टाचार निवारण अधिनियम की धारा 5 (1) (घ) के साथ पठित धारा 5 (2) के अन्तर्गत एसआईप्रार सं. 8/89-विशाखापत्नम, विनाक 9-2-89	1. श्री टी. एम. एन. मूर्खि, प्रबन्धक, बैंक आफ इंडिया, शॉम्सेल, ग्रन्ड हैदराबाद मे (के. स. उपक्रम) 2. श्री जी. सेथुरामा राव, प्रोपराइटर, मैसर्स रवि एंड सिंज, शॉम्सेल (गैर-सरकारी व्यक्ति) 7. भारतीय दण्ड संहिता की धारा 120-ख, 420, 468, 471, 477-क और 419 तथा भ्रष्टाचार निवारण अधिनियम की धारा 5 (1) (घ) के साथ पठित धारा 5 (2) के अन्तर्गत एसआईप्रार सं. 9/89-विशाखापत्नम, वि. 23-2-89	1. श्री ए. पूर्णाचल राव, शास्त्र प्रबन्धक यूनियन बैंक आफ इंडिया, उत्तर राज्यपल्लम शास्त्रा, नैलोर (के. स. उपक्रम) 2. श्री एच. एस. हमीद, प्रार. श्री. ओ. यूनियन बैंक आफ इंडिया उत्तरी राज्यपल्लम शास्त्रा, नैलोर (के. स. उपक्रम) 3. श्री छब्दीरो सुन्दरा रामा रेड्डी, पुल पंचेला रेड्डी, बबील्सा, विवाललूर मैल, नैलोर जिला (गैर-सरकारी व्यक्ति) 4. श्री के. अन्ना राव, पियन, यूनियन बैंक आफ इंडिया, उत्तरी राज्यपल्लम शास्त्रा, (के. स. उपक्रम) 8. भारतीय दण्ड संहिता की धारा 120-ख', 409 और भ्रष्टाचार निवारण अधिनियम की धारा 5 (1) (घ) के साथ पठित धारा 5 (2) के अन्तर्गत एस आई प्रार सं. 15/89-विशाखापत्नम, वि. 20-4-89	1. श्री आर. जी. कृष्णा, डिएटी सी ई (मैकेनिकल), डिन्कुस्तान स्टील वर्क्स कैम्ब्रिक्शन मि. (एच एस सी एल) विशाखापत्नम (के. स. उपक्रम) 2. श्री पुष्पकमली, एम. ई. (मैके.) एच एस सी एल विशाखापत्नम (के. स. उपक्रम)

1	2	1	2
		3 श्री अमृतसरारी, बैडर्ड (मैके) एवं एस सी एल विशाखापत्नम (के स. उपक्रम)।	4 श्री बीरज एसेपिएट्टेस (पी) नि, माडल हाउस, बलासा (गैर-सरकारी व्यक्ति)
9 भारतीय दड सहिता की धारा 120-व्य, 420 और भ्रष्टाचार निवारण अधिनियम की धारा 5 (1) (घ) के साथ पठित धारा 5 (2) के अस्तंगत एस आईप्रार स. 17/89-विशाखापत्नम वि 24-5-89।	4 मैसर्स मैक, फैब इड टेव, क्लॉव के पास, अकायली (गैर सरकारी व्यक्ति)।	12 भारतीय दड सहिता की धारा 120-व्य, 420, 468, 467, 171 और प्रबधक, आनंद बैक, कोपेश्वरलाल 477क और भ्रष्टाचार निवारण अधिनियम की धारा 5 (1) (घ) एवं के साथ पठित धारा 5 (2) (घ) के साथ पठित धारा 5 (1) (घ) के स. उपक्रम)।	1 श्री पा अनियत राव, शाहा अवस्था (के स. उपक्रम) 2. श्री दत्तेश चुन्ना राव, प. अव मलेम, बल्लूर्जी जिला (गैर-सरकारी व्यक्ति)
10. भारतीय दड सहिता का धारा 120-व्य, 420, 467, 471 और भ्रष्टाचार निवारण अधिनियम की धारा 5 (1) (घ) के साथ पठित धारा 5 (2) के अस्तंगत एस आईप्रार सं. 18/80 विशाखापत्नम वि 30-6-89।	3 श्री एन. विश्वनाथ रेड्ड, शाला प्रबधक, प्रान्ध बैक, श्रीकृष्ण कुलम (के. स. उपक्रम) 4 श्री के कोटोप्पेवर राव, शाला प्रबधक, प्रान्ध बैक, श्रीकृष्ण कुलम (के स. उपक्रम) 5 श्री ए वी नरसिंहन, अध्यक्ष, आकाशुलम नारायणिका, आकाशुलम (गैर-सरकारी) 6 श्री ए. गोविन्दराजू, गूजरातीपेट, श्रीकृष्ण कुलम (गैर-सरकारी व्यक्ति) 7 श्री ए. कोनडाला राव, श्रीकृष्ण कुलम, (गैर-सरकारी व्यक्ति)	1 श्री श्री. बैकटेस्टर्पु, विष्णुपुरोसंस्कृत, विष्णुपुरोसंस्कृत निवारण अधिनियम का धारा 5 (1) (घ) के साथ पठित धारा 5 (2) (घ) के अस्तंगत एस आईप्रार स 26/89-विशाखापत्नम वि 29-8-89।	1 श्री श्री. बैकटेस्टर्पु, विष्णुपुरोसंस्कृत, विष्णुपुरोसंस्कृत निवारण अधिनियम का धारा 5 (1) (घ) के साथ पठित धारा 5 (2) (घ) के अस्तंगत एस आईप्रार स 26/89-विशाखापत्नम वि 29-8-89।
11 भारतीय दड सहिता की धारा 120-व्य, 420 और भ्रष्टाचार निवारण अधिनियम की धारा 5 (1) (घ) के साथ पठित 5 (2) के अस्तंगत एस आईप्रार सं 20/89-विशाखापत्नम वि. 277-89	1 श्री भार एल रसिंग, प्रबधक, एच एस सा एल विशाखापत्नम अव फिलाई मैं (के स. उपक्रम) 2 श्री ए. डा. मिह, डॉर्ड (ई) एच एस सा एल विशाखापत्नम (के. स. उपक्रम)।	1 श्री एन. वी. एस. पटेल, विशाखापत्नम 120-व्य, 420, 467, 471, 477क और भ्रष्टाचार निवारण अधिनियम की धारा 5 (1) (घ) के साथ पठित धारा 5 (2) के अस्तंगत एस आईप्रार म 31/89 विशाखापत्नम वि 25-10-89।	1 श्री भार वी. रसिंग, प्रबधक (खर्च) एचएसएल विशाखापत्नम (के स. उपक्रम) 2. श्री वार्षी पा. राव, मूल्य प्रबधक एक एचएससोल, विशाखापत्नम विशाखापत्नम वि 25-10-89।
	3 श्री बाके जीह, डिप्टी संगम, (ई) एचएससोल, विशाखापत्नम (के. स. उपक्रम)	3 श्री एम. कृष्ण रोहन, शाला भवन विष्णुपुरोसंस्कृत, ग्रामीण बैक, पेणुमका शाला (के स. उपक्रम)	3 श्री रमेश राव, प्रबधक (एक) एचएससोल, विशाखापत्नम (के. स. उपक्रम) 4. मैसर्स धीरज एमोशियेट्ट (प्र) लि, कलकत्ता (गैर-सरकारी पार्टी)

1	2		
प्रधिनियम की धारा 5 (1) (ब्र) के साथ पठित धारा 5 (2) के संतर्गत एसप्राइमार स. 39/89-विशाखापत्नम दि. 20-11-89	१ श्री मो. बैकटेशवरम् खंडवी, चैतन्य ग्रामीण बैंक, लेणूमका (के ग उपचाम)		
	२ श्री पा. धौनिवासप्रभु फालट-पर्यवेक्षक, चैतन्य ग्रामीण बैंक, दानपरस्तूशाखा, गुंटूर (के.स, उक्तम)		
	३ श्री एम. नवाही शंकर राय, अशकालिक अम्बाई सकाई कम्पनी, चैतन्य ग्रामीण बैंक, लेणूमका (ग-गरकारी व्यक्ति)		
17. भारतीय बड़ संस्था की धारा 5 (1) (ब्र) के साथ पठित धारा 5 (2) के संतर्गत एसप्राइमार स. 7/90-विशाखापत्नम दि. 19-2-90	१ डा. नरसिंहामूर्ति, शास्त्र-प्रबंधक, एस बी ग्राही, कासिमकोटा निवारण प्रधिनियम की धारा 5 (1) (ब्र) के साथ पठित धारा 5 (2) के संतर्गत एसप्राइमार स. 7/90-विशाखापत्नम दि. 19-2-90		
18. भारतीय बड़ संस्था की धारा 5 (1) (ब्र) के साथ पठित धारा 5 (2) के संतर्गत एसप्राइमार स. 10/90-विशाखापत्नम दि. 28-3-90	१. श्री आर. जा. कृष्ण, उप सा.ई. 120 ए, 420 भीर भवानी निवारण-एच-एससीएल, विशाखापत्नम (के रण अधिनियम की धारा 5 (1) (ब्र) के साथ पठित धारा 5 (2) के संतर्गत एसप्राइमार स. 10/90-विशाखापत्नम दि. 28-3-90)	१. श्री आर. जा. कृष्ण, उप सा.ई. 120 भीर भवानी निवारण-एच-एससीएल, विशाखापत्नम (के स. ३४५म)	१. श्री आर. जा. कृष्ण, उप सा.ई. 120 भीर भवानी निवारण-एच-एससीएल, विशाखापत्नम (के स. ३४५म)
	२. श्री पी. ग्राही, पुस्तवासी, एसई एच एस सी एल, विशाखापत्नम अब भागलपुर मे (के. स. उपक्रम)	२. श्री पी. ग्राही, पुस्तवासी, एसई एच एस सी एल, विशाखापत्नम अब भागलपुर मे (के. स. उपक्रम)	
	३. श्री अद्युत वारी, जैद्दी, एच-एससीएल, विशाखापत्नम (के स. उपक्रम)	३. श्री अद्युत वारी, जैद्दी, एच-एससीएल, विशाखापत्नम (के स. उपक्रम)	
	४. श्री पी. के. जा. कुरुप, स्टार-गोपीर एच-एससीएल, विशाखापत्नम (के स. उपक्रम)	४. श्री पी. के. जा. कुरुप, स्टार-गोपीर एच-एससीएल, विशाखापत्नम (के स. उपक्रम)	
	५. श्री आर. पी. घोष, जैद्दी (मंप.) एच-एस सी एल, विशाखापत्नम (के स. उपक्रम)	५. श्री आर. पी. घोष, जैद्दी (मंप.) एच-एस सी एल, विशाखापत्नम (के स. उपक्रम)	
	६. श्री एम. वी. राय, जैद्दी (सिर्विस एच-एससीएल) अब सेवा निवृत्त (के स. उपक्रम)	६. श्री एम. वी. राय, जैद्दी (सिर्विस एच-एससीएल) अब सेवा निवृत्त (के स. उपक्रम)	
	७. मैसर्सं सिंहमा ध्यानियर्स, पीका	७. मैसर्सं सिंहमा ध्यानियर्स, पीका	
	८. श्री अद्युत वारी (गैर-सरकारी फर्म)	८. श्री अद्युत वारी (गैर-सरकारी फर्म)	

## MINISTRY OF PERSONNEL, P.G. &amp; PENSIONS

(Department of Personnel and Training)

## ORDER

New Delhi, the 4th January, 1991

S.O. 192.—In exercise of the powers conferred by sub-section (1) of section 5 read with section 6 of the Delhi Special Police Establishment Act, 1946 (Act No. 25 of 1946) the Central Government, with the consent of the State Gov-

ernment of Andhra Pradesh (vide Home SC-A) Department G.O. Rt. No. 2238 dated 13-8-1990 hereby extends the powers and jurisdiction of the members of the Delhi Special Police Establishment to the whole of the State of Andhra Pradesh for investigation of the offences punishable under Prevention of Corruption Act, 1947 and various sections of Indian Penal Code alleged to have been committed by the employees of Central Government, Central Government Undertakings and Private Persons in the 18 cases which are to be registered by the C.B.I. Visakhapatnam as shown in the annexure attached to this order.

[No. 228/39/90-AVD.II]

HAZARA SINGH, Dy. Secy.

## ANNEXURE

SIR No. with date of Registration and Sec. of Law	Names of accused
1. SIR No. 38/88- VSP, d. 10-12-88 u/s 120-B, 420 IPC Sec. 13(2) r/w 13(1) (d) of P.C. Act.	1. Sri K. Pulla Rao, Manager, Andhra Bank, Vijayawada (Central Govt. Undertaking)
2. SIR No. 42/88- VSP, dt. 23-12-88 U/s 120-B IPC and Sec. 5(1)(d) of PC Act.	2. Sri Sunkar Rajkumar, S/o Satyanarayana, Managing Director, M/s South India Mango Pulp Co. Pvt. Ltd., Vijayawada (Pvt. person)
3. Sri M. Surendranath, Dy. Manager ZO, FCI Madras (Central Govt. Undertaking)	3. Sri K.L. N. Sarma, Jt. Manager, (Commercial), FCI ZO Madras (Central Govt. Undertaking)
4. Sri G. Namasivayam, Manager (F&A), ZO, FCI, Madras (Central Govt. Govt. Undertaking)	4. Sri R. Narayanaswamy, Zonal Manager, FCI, Madras (Central Govt. Undertaking)
5. Sri G.C. Krashna Murthy, Sr. Regional Manager, FCI, Hyderabad (Central Govt. Undertaking)	5. Sri T.V. Subba Rao, Jt. Manager, F(Finance), FCI RO Hyd. (C.G.U.)

(1)	(2)	(1)	(2)
7. Sri Rajendralal, Dy. Manager (Contracts) FCI RO, Hyderabad (C.G.U.)	5. SIR No. 7/89- VSP, dt. 9-2-89 U/s 120-B, 420 IPC(2) r/w 5(1) (d) of PC Act.	1. Sri B. Satyanarayana, B.M., Bank of India, Rajahmandry (Central Govt. Undertaking)	2. Sri P. Satyanarayana, Proprietor, M/s Premier Fert. Co., Rajahmandry (Private person)
8. Sri G. Balakrishna Rao, Dy. Manager, (Finance) FCI RO Hyd. (C.G.U.)			
9. Sri D.V. Ramaiah, Authorised Representative of Vizag, FCI Labour Contract Co. op Society, Vizag, (Private person)	6. SIR No. 8/89- VSP dt. 9-2-89 U/s 120-B, 420 IPC 5(2) r/w 5(1)(d) of PC Act.	1. Sri T.S.N. Murthy, Manager, Bank of India, Dommeru, Now in Hyd. (C.G.U.)	2. Sr. G. Sethurama Rao, Proprietor, M/s Ravi Agencies, Dommeru (Private person)
3. SIR No. 46/88- VSP, dt. 20-12-88 U/s 120-B, 420 IPC	1. Sri A. Suryanarayana, formerly Branch Manager, Corporation Bank, Guntur (Central Govt. Undertaking)	7. SIR No. 9/89— VSP, dt. 23-2-89 U/s 120-B, 420, 468, 471, 477-A & 419 IPC 5(2) r/w 5(1)(d) of PC Act.	1. Shri A. Poornachandra Rao, B.M., Union Bank of India, North Rajupalem Br., Nellore (Central Govt. Undertaking)
	2. Sri Hegde, Proprietor, Malnad Leaf Tobacco, Guntur (Private person)		2. Sri H. S. Hameed, RDO, Union Bank of India, North Rajupalem Br., Nellore (Central Govt. Undertaking)
	3. Sri C. Venkateswara Rao, an employee under Sri Hegde (Private person)		
	4. Smt. Vasantha R. Hedge, w/o Sri Hegde M/s. Southern Leaf Toabcco Co., Guntur (Private person)		3. Sri Chevuri Sundara Rama Reddy, S/o Penchala Reddy, Vavilla, Vidavuloor Mandal, Nellore dt. (Private Person)
	5. Sri Jayaram Setty, brother of Smt. Vasantha R. Hegde, Guntur (Pvt. person)		4. Sri K. Anna Rao, Peon Union Bank of India, North Rajupalem Br. (C.G.U.)
4. SIR No. 6/89- VSP, dt. 8-2-89 U/s 120-B, 420 IPC & Sec. 5(2) r/w 5(1)(d) of PC Act.	1. Sri B.N. B. Naidu, Manager, Bank of India, Tadepalliaudem (C.G.U.) 2. Sri P. Raja Rao, Proprietor, Gowthami Agro Chemicals, Tadepalliaudem (Private person)	8. SIR No. 15/89— VSP, dt. 20-4-89 U/s 120-B, 409 IPC and 5(2) r/w 5(1)(c) of PC Act.	1. Sri R. G. Krishna, Dy. CE (Mechanical) Hindustan Steel Works Construction Ltd., (HSCL) Visakhapatnam (C.G.U.)
	3. Sri P.V. Ramakrishna Rao (Private person)		2. Sri Purushwani, SE, HSCL, Visakhapatnam (C.G.U.)
	4. Smt. P. Lakshmi Rani Partner, M/s Lakshmi Traders, Tadepalliaudem (Pvt. person)		
	5. Sri A.V. Krishna Rao, Proprietor, Sri Krishna Fert. Tadepalliaudem (Pvt. Person)		

(1)	(2)
	3. Sri Abdul Bari, ZE (Mech.) HSCL, Visakhapatnam (C.G.U.)
	4. M/s Mec. Fabs, near Ind. Dev. Area, Anakapalle (Pvt. person)
9. SIR No. 17/89— VSP, dt. 24-5-89 U/s 120-B, 420 IPC 5(2) r/w 5(1)(d) of PC Act.	1. Sri G. Malakonda Reddy, ZM, Andhra Bank, Vizag now Dy. GM Hyd. (C.G.U.)
	2. Sri P. Suryanarayana Rao, R.M. Andhra Bank, Srikakulam (C.G.U.)
	3. Sri N. Viswanatha Reddy B.M., Andhra Bank, Srikakulam (C.G.U.)
	4. Sri K. Koteswara Rao, B.M., Andhra Bank, Srikakulam (C.G.U.)
	5. Sri A. V. Narasimham, Chairman, Srikakulam Municipality, Srikakulam (Pvt.)
	6. Sri A. Govindarajulu, Gujarathipet, Srikakulam (Private Person)
	7. Sri A. Kondala Rao, Srikakulam (Private Person)
10. SIR No. 18/80— VSP, dt. 30-6-89 U/s 120-B, 420, 467, 471 IPC & Sec. 5(2) r/w 5(1)(d) of P.C. Act	1. Sri D. N. Mandal, SE (MECHO) HSCL, Vizag (C.G.U.)
	2. Sri L. C. Satyadev, SE (Mech.) HSCL, Vizag (C.G.U.)
	3. Sri Mangal Pandey, Asstt. DE, HSCL, Vizag (C.G.U.)
	4. Sri S.C. Datta, Construction Asstt. I (Mech), HSCL, Vizag (C.G.U.)
	5. M/s Decon Project Engineers, near Ind. Dev. Area, Anakapalli having HO at Madras (pvt. person)
11. SIR, 20/89— VSP, dt. 27-7-89 U/s 120-B, 420 IPC & Section 5(2)	1. Sri R. L. Russia, Manager, HSCL, Vizag now in Bhilai Central Govt. Undertaking
	r/w 5(1)(d) of PC Act.
	2. Sri A. D. Singh, DE(E) HSCL Vizag (C.G.U.)
	3. Sri B. K. Jah, Dy. CH (E), HSCL, Vizag (C.G.U.)
	4. M/s Dheeraj Associates (P) Ltd., Model House, Calcutta (Pvt. person)
	1. Sri P. Srinivasa Rao, Branch Manager, Andhra Bank, Kamayyapalem Br. (C.G.U.)
	2. Sri Danturi Subba Rao, P. Ankampalem, WG Dt. (Pvt. person)
	3. Sri Alluri Venkata Subba Rao, P. Ankampalem, WG dt. (Private person)
	4. Sri Pasupulati Suryana- rayana Julugumilli, WG dt. (Private person)
	13. SIR. 26/89— VSP, dt. 29-8-89 U/s 120-B, 420 IPC & Sec. 5(2) r/w 5(1)(d) of PC Act, 1947.
	1. Sri D. Venkateswarlu, Elect. Foreman, SE Rly. Vizag (C.G.U.)
	2. Sri K. Kalyanam, Asstt. EE (S & C) SE Rly., Vizag. (C.G.)
	3. Sri A. Venkata Rao, Off. Supdt. (S & C), SERRLY. Vizag (C.G.U.)
	4. Sri K. N. Rao, Sr. Stores Officer, SE Rly. Visakhapatnam (C.G.)
	5. M/s Arvind & Co., Suryabagh, Vizag (Pvt. person)
	14. SIR No. 28/89— VSP, dt. 29-9-89 U/s 120-B, 420, 467, 471, 477A IPC & 5(2) r/w 5(1)(d) of PC Act.
	1. Sri N.V.S. Patrudu, Officer, SBI, Anakapalle (C.G.U.)
	2. Smt. M. Jayalakshmi W/o MVS Patrudu (Pvt. person)
	3. Sri M. Prabhakar, S/o NVS Patrudu, Rajahmandry (Pvt. person)

(1)	(2)	(1)	(2)
15. SIR No. 31/89— VSP, dt. 25-10-89 U/s 120-B, 420 & Sec. 5(2) r/w 5(1)(d) of P.C. Act.	1. Sri R. L. Russia, Manager (Pur), HSCL Vizag. (C.G.U.) 2. Sri Y. P. Rao, Chief Manager (F), HSCL, Vizag. (CGU) 3. Sri S. Venkatesh, AGM, HSCL, Vizag (C.G.U.) 4. Sri Ramana Rao, Manager (F) HSCL, Visakhapatnam (C.G.U.) 5. M/s Dheeraj Associated (P) Ltd., Calcutta (Pvt. person)	18. SIR. 10/90— VSP, dt. 28-3-90 U/s 120-B, 420, IPC and Sec. 5(2) r/w 5(1)(d) of P.C. Act.	1. Sri R. G. Krishna, Dy. CE, HSCL, Vizag (C.G.U.) 2. Sri P. J. Puruswami, SE, HSCL, Vizag, now in Bhagalpur (C.G.U.) 3. Sri Abdul Bari, ZE, HSCL, Vizag (C.G.U.) 4. Sri P. H. G. Kurup, Store Keeper, HSCL, Vizag (C.G.U.) 5. Sri R. C. Ghosh, ZE (Mech), HSCL, Vizag (C.G.U.) 6. Sri N. V. Rao, ZE (Civil) HSCL (now retired) (C.G.U.) 7. M/s Sigma Engineers, PB No. 6, Anakapalle Pvt. firm)
16. SIR. 39/89— VSP, dt. 20-11-89 U/s 120-B, 420, 467, 468, 409, 477-A IPC & Sec. 5(2) r/w 5(1)(d) of PC Act.	1. Sri M. Krishna Mohan, Branch Manager, Chaitanya Grameena Bank Penumaka Br. (Central Govt. Undertaking) 2. Sri C. Venkateswarlu, Cashier, Chaitanya Grameena Bank, Penumaka (C.G.U.) 3. Sri P. Srinivasa Prabhu, Field Supervisor, Chaitanya Grameena Bank, Donapadu Br., Guntur (C.G.U.) 4. Sri M. Bhavani Sankara Rao, Part-time Temp. Sweeper, Chaitanya Grameena Bank, Penumaka, (Pvt. person).	(कार्यालय और प्रशिक्षण विभाग)	
17. SIR. 7/90—VSP dt. 19-2-90 U/s 420, 477A, 468 IPC & Sec. 5(2) r/w 5(1)(d) of PC Act.	1. Sri T. Narasimha Murthy, B.M., SBI, Kasimkota now in Kothapet, EG Dt. (CGU) 2. Sri Pentakota Apparao, Proprietor, Sree Gowri Engg. Agencies, Anakapalle (Pvt. person) 3. Sri Alla Appa Rao, Proprietor, M/s Sree Suryalakshmi Radio & Elect. Timmarajupet, Anak Palli (pvt. person) 4. Sri G. V. Rao, Sri Shankar Krishna Engg. Anakapalli (pvt. (person)	का. आ. 193—केन्द्रीय सरकार, दण्ड प्रक्रिया संहिता, 1973 (1974 का 2) को धारा 24 की उपधारा (8) धारा प्रदत्त शक्तियों का प्रयोग करते हुए, श्री पी. शार. नामजोशी, अधिवक्ता, मुम्बई को श्री एस. पी. नामदार, ज्येष्ठ तकनीश, एवर हिंड्या, मुम्बई के विशेष विली विशेष पुलिस स्पायलर (भ्रष्टाचार-निरोध प्रभाग) नियमित मामला सं. 31-81-मुम्बई में, विशेष स्पायलर के व्यापालय, मुम्बई में अधिकारी योजन के संचालन के प्रयोजन के लिए विशेष सेक्रेट अधिकारीक नियुक्त करती है।	का. आ. 225/33/90-ए. वी. शे. II]

New Delhi, the 9th January, 1991

S.O. 193.—In exercise of the powers conferred by sub-section (8) of Section 24 of the Code of Criminal Procedure, 1973 (2 of 1974) the Central Government hereby appoints Shri P. R. Namjoshi, Advocate, Bombay as a Special Public Prosecutor for the purpose of conducting prosecution under the Delhi Special Police Establishment (Anti Corruption Division) Regular Case No. 31/81-Bom. against Shri S. P. Inamdar, Senior Air Technician, Air India, Bombay in the Court of Special Judge, Bombay.

[No. 225/33/90-AVD.II]

का. आ 194.—केन्द्रीय सरकार, दण्ड प्रक्रिया संहिता, 1973  
(1974 का 2) की धारा 24 की उपधारा (8) धारा प्रदत्त शक्तियों  
का प्रयोग करते हुए, श्री पी. शार. नामजोशी अधिवक्ता, मुम्बई को  
श्री शिल्पोचर शार. शीरुजा शीर 8 अस्ट्रों के विशेष शार. शी.  
29/84-मुम्बई, और श्री मार्था बी. फनन्डीस शीर 6 अस्ट्रों के विशेष  
विली विशेष पुलिस स्पायलर (भ्रष्टाचार निरोध प्रभाग) के दो मामलों  
में, शार. शी. 30/84-मुम्बई में विचारण स्पायलर अपर मेमन व्यापारीश

मंजगांव, गोवा तथा अपील और पुनरीक्षण आयातलय, पणजी में अधियोजन के संचालन के प्रयोजन के लिए विशेष लोक अधियोजक नियुक्त करता है।

[मंड़ा 225/3/89-ए. वी. शी.-II]

ए. सी. शर्मा, अवार सचिव

S.O. 194.—In exercise of the powers conferred by sub-section (8) of Section 24 of the Code of Criminal Procedure, 1973 (2 of 1974) the Central Government hereby appoints Shri P. R. Namjoshi, Advocate, Bombay as Special Public Prosecutor for the purpose of conducting prosecution of Delhi Special Police Establishment (Anti-Corruption Division) cases viz., R.C. 29/84-Bom., against Sri Christopher R. D'Souza, and 8 others and R.C.30/84-Bom. against Shri Martho B. Fernandes and 6 others in the trial Court Additional Sessions, Judge, Madgaon, Goa, and in Appellate and Revisional Courts at Panaji.

[No. 225/3/89-AVD. II]

A. C. SHARMA, Under Secy.

वित्त मंत्रालय

(राजस्व विभाग)

नई दिल्ली, 27 नवम्बर, 1990

आयकर

का. आ. 195—प्रायकर अधिनियम, 1961 (1961 का 43) की धारा 10 के अंडे (23-ग) के उपबंद (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार एवं द्वारा “सीफेवररस” बेलेपर फैड सोसायटी” अम्बई को उक्त उपबंद के प्रयोजनार्थ करनिधारण वर्ष 1989-90 के लिए अधिसूचित करती है।

[म. 8770/फा. म. 197/222/89-आयकर (नि-I)]

#### MINISTRY OF FINANCE

(Department of Revenue)

New Delhi, the 27th November, 1990

(INCOME-TAX)

S.O. 195.—In exercise of the powers conferred by sub-clause (iv) of clause (23C) of section 10 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby notifies “Seafarers’ Welfare Fund Society”, Bombay for the purpose of the said sub-clause for the assessment year 1989-90.

[No. 8770/F. No. 197/222/89-IT(A.I)]

आयकर

का. आ. 196—प्रायकर अधिनियम, 1961 (1961 का 43) की धारा 10 के अंडे (23-ग) के उपबंद (5) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार एवं द्वारा “डॉयेमिन आफ कलक्टर्स” को करनिधारण वर्ष 1990-91 से 1992-93 तक के लिए निम्नलिखित शर्तों के अधीन उक्त उपबंद के प्रयोजनार्थ अधिसूचित करती है, प्रायतः—

(1) करनिधारिती इसकी आय का इलेमाल अथवा इसकी आय का इलेमाल करने के लिए इसका संचयन पूर्णतया सधा अनन्यतया उन उद्देश्यों के लिए करेगा, जिनके लिए इसकी आय का इलेमाल करने की गई है।

(2) करनिधारितों अपने उल्लिखित कर निधारण वर्षों में संगत प्रत्यक्षी वर्षों की किसी भी अवधि के दौरान धारा 11 की

उपबंद (5) में विविधिष्ट किसी एक अथवा एक से अधिक द्वारा अथवा तरीकों से भिन्न तरीकों में इसकी निधि (जैवर-जशाहिरात, फर्मिचर आदि के रूप में प्राप्त तथा रक्षणात्मक व स्वैच्छिक अंशदान से भिन्न) का निवेश नहीं करेगा अथवा उसे जमा नहीं करवा सकेगा;

(3) यह अधिसूचना किसी ऐसी आय के संबंध में लागू नहीं होगी जोकि कारोबार में प्राप्त लाभ अभिनाभ के रूप में हो जब तक कि ऐसा कारोबार उक्त करनिधारिती के उद्देश्यों की प्राप्ति के लिए प्रासंगिक नहीं हो तथा ऐसे कारोबार के संबंध में इसका में लेनदान-प्रदानकार्य नहीं रखी जाती है।

[म. 8771/फा. म. 197/159/90-आयकर (नि-I)]

#### (INCOME-TAX)

S.O. 196.—In exercise of the powers conferred by sub-clause (v) of clause (23C) of the section 10 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby notifies the “Diocese of Calcutta” for the purpose of the said sub-clause for the assessment years 1990-91 to 1992-93 subject to the following conditions, namely:—

- the assessee will apply its income, or accumulate it for application, wholly and exclusively to the objects for which it is established;
- the assessee will not invest or deposit its funds (other than voluntary contributions received and maintained in the form of jewellery, furniture etc.) for any period during the previous years relevant to the assessment years mentioned above otherwise than in any one or more of the forms or modes specified in sub-section (5) of section 11;
- this notification will not apply in relation to any income being profits and gains of business unless the business is incidental to the attainment of the objectives of the assessee and separate books of accounts are maintained in respect of such business.

[No. 8771/F. No. 197/159/90-IT(A.I)]

नई दिल्ली, 11 दिसम्बर 1990

आयकर

का. आ. 197—प्रायकर अधिनियम, 1961 (1961 का 43) की धारा 10 के अंडे (23-ग) के उपबंद (5) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार एवं द्वारा “गोडियामिशन, कलकत्ता” को करनिधारण वर्ष 1990-91 से 1992-93 तक के लिए निम्नलिखित शर्तों के अधीन उक्त उपबंद के प्रयोजनार्थ अधिसूचित करती है, प्रायतः—

- करनिधारिती इसकी आय का इस्तेमाल अथवा इसकी आय का इस्तेमाल करने के लिए इसका संचयन पूर्णतया तथा प्रत्यक्षतया उन उद्देश्यों के लिए करेगा, जिनके लिए इसकी अवधि की गई है;
- करनिधारितों उपर-उल्लिखित करनिधारण वर्षों से मगां पूर्ववर्षी वर्षों की किसी भी अवधि के दौरान धारा 11 की उपबंद (5) में विविधिष्ट लिखी तरीकों से इसकी निधि (जैवर-जशाहिरात, फर्मिचर आदि के रूप में प्राप्त लाभ रक्षणात्मक व स्वैच्छिक अंशदान से भिन्न) का निवेश नहीं करेगा अथवा उसे जमा नहीं करवा सकेगा
- यह अधिसूचना किसी ऐसी आय के सम्बन्ध में लागू नहीं होगी जोकि कारोबार में प्राप्त लाभ अभिनाभ के रूप में

हो जब तक कि ऐसा कारोबार उक्त कर-निर्धारिती के उद्देश्यों की प्राप्ति के लिए प्रासारिक नहीं हो तथा ऐसे कारोबार के सम्बन्ध में अलग से लेखा-पुस्तिकाएं नहीं रखी जाती हों।

[र. 8782/फा. स 197/160/90-आयकर (नि-1)]

New Delhi, the 11th December, 1990

(INCOME-TAX)

S.O. 197—In exercise of the powers conferred by sub-clause (v) of clause (23C) of section 10 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby notifies "Gaudiya Mission, Calcutta" for the purpose of the said sub-clause for the assessment years 1990-91 to 1992-93 subject to the following conditions namely—

- (i) the assessee will apply its income, or accumulate it for application, wholly and exclusively to the objects for which it is established;
- (ii) the assessee will not invest or deposit its funds (other than voluntary contributions received and maintained in the form of jewellery, furniture etc.) for any period during the previous year relevant to the assessment years mentioned above otherwise than in any one or more of the forms or modes specified in sub-section (5) of section 11;
- (iii) this notification will not apply in relation to any income being profits and gains of business, unless the business is incidental to the attainment of the objectives of the assessee and separate books of accounts are maintained in respect of such business.

[No. 8782/F No 197/160/90-IT(A 1)]

(आयकर)

का आ 198—आयकर अधिनियम 1961 (1961 का 43) नी धारा 10 के खण्ड (23ग) के उपखण्ड (1) द्वारा प्रदत्त अकियों का योग करते हुए केंद्रीय सरकार एतद्वारा "रमण महर्षि सेट्टलमेंट, बंगलौर" को कर-निर्धारण वर्ष 1990-91 से 1992-93 तक के नए निम्नलिखित शर्तों के अध्ययीन रहने हुए उक्त उपखण्ड के प्रत्येक नियमित कर्ता है, अर्थात्—

- (1) कर-निर्धारिती इसकी आय का इस्तेमाल अथवा इसकी आय का इस्तेमाल करने के लिए उपर्युक्त शर्तों पूर्णतया तथा अनन्यतया उन उद्देश्यों के लिए करेगा जिनके लिए इसकी स्थापना की गई है;
- (2) कर-निर्धारित उपर उल्लिखित कर-निर्धारण वर्षों से मग्न पूर्ववर्ती वर्षों की किसी भी अवधि के दौरान धारा 11 वी उप धारा (5) में विनिर्दिष्ट किसी एक अथवा एक से अधिक दो अथवा तरीकों से निज तरीकों से इसकी निधि (जेवर, जवाहिरात, फर्नीचर आदि) के रूप में प्राप्ति तथा रख-खात्र में स्वैच्छिक अंशदान से भिन्न) वा निवेश नहीं करेगा अथवा उसे जमा नहीं करवा सकेगा;
- (3) यह अधिसूचना किसी ऐसी आय के सम्बन्ध में लाग नहीं होगी, जो कि कारोबार में प्राप्त लाभ तथा अधिकार के रूप में हो जब तक कि ऐसा कारोबार उक्त कर-निर्धारित के उद्देश्यों की प्राप्ति के लिए प्रासारिक नहीं हो तथा ऐसे कारोबार के सम्बन्ध में अलग से लेखा-पुस्तिकाएं नहीं रखी जाती हो।

[सं. 8783/फा. सं. 197/34/90—आयकर (नि-1)]

(INCOME-TAX)

S.O. 198.—In exercise of the powers conferred by sub-clause (iv) of clause (23C) of section 10 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby notifies "Ramana Maharshi Centre for Learning, Bangalore" for the purpose of the said sub-clause for the assessment years 1990-91 to 1992-93 subject to the following conditions, namely:—

- (i) the assessee will apply its income, or accumulate it for application, wholly and exclusively to the objects for which it is established;
- (ii) the assessee will not invest or deposit its funds (other than voluntary contributions received and maintained in the form of jewellery, furniture etc.) for any period during the previous years relevant to the assessment years mentioned above otherwise than in any one or more of the forms or modes specified in sub-section (5) of section 11;
- (iii) this notification will not apply in relation to any income being profits and gains of business, unless the business is incidental to the attainment of the objectives of the assessee and separate books of accounts are maintained in respect of such business.

[No. 8783/F. No. 197/34/90-IT(A 1)]

नई दिल्ली, 20 दिसम्बर, 1990

(आयकर)

का आ 199—आयकर अधिनियम, 1961 (1961 का 43) की धारा 10 के खण्ड (23ग) के उपखण्ड (4) द्वारा प्रदत्त अविन्द्रियों का प्रयोग करते हुए केंद्रीय सरकार एतद्वारा "दीपसं एक्शन पोर डिव्हेलपमेंट (महाराष्ट्र) वर्बाई" को कर-निर्धारण वर्ष 1990-91 से 1990-93 तक के लिए निम्नलिखित शर्तों के प्रधाधीन रहते हुए उक्त उपखण्ड के प्रयोजनार्थी अधिसूचित करती है, अर्थात्—

- (1) कर-निर्धारिती इसकी आय का इस्तेमाल अथवा इसकी आय का इस्तेमाल करने के लिए इसका सचयत पूर्णता तथा अनन्यतया उन उद्देश्यों के लिए करेगा जिनके लिए इसकी स्थापना की गई है;
- (2) कर-निर्धारित उपर उल्लिखित कर-निर्धारण वर्षों में संगत पूर्ववर्ती वर्षों के विसी अवधि के दौरान धारा 11 की उप-धारा (5) में विनिर्दिष्ट विसी एक अथवा एक से अधिक दो अथवा तरीकों से निज तरीकों से इसकी निधि (जेवर, जवाहिरात, फर्नीचर आदि) वे रूप में प्राप्ति तथा रख-खात्र में स्वैच्छिक अंशदान में भिन्न) वा निवेश नहीं करेगा अथवा उसे जमा नहीं करवा सकेगा।
- (3) यह अधिसूचना किसी ऐसी आय के सम्बन्ध में लाग नहीं होगी, जो कि कारोबार में प्राप्त लाभ तथा अधिकार के रूप में हो जब तक कि ऐसा कारोबार उक्त कर-निर्धारिती के उद्देश्यों की प्राप्ति के लिए प्राप्तिक नहीं हो तथा ऐसे कारोबार के सम्बन्ध में अलग से लेखा-पुस्तिकाएं नहीं रखी जाती हो।

[ग ५७९३/फा स 197/1/90—आयकर (नि-1)]

New Delhi, the 20th December, 1990

(INCOME-TAX)

S.O. 199.—In exercise of the powers conferred by sub-clause (iv) of clause (23C) of section 10 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby notifies "People's Action for Development (Maharashtra), Bombay" for the purpose of the said sub-clause for the

assessment years 1990-91 to 1992-93 subject to the following conditions, namely :—

- (i) the assessee will apply its income, or accumulate it for application, wholly and exclusively to the object for which it is established;
- (ii) the assessee will not invest or deposit its funds (other than voluntary contributions, received and maintained in the form of jewellery, furniture etc.) for any period during the previous years relevant to the assessment years mentioned above otherwise than in any one or more of the forms or modes specified in sub-section (5) of section 11;
- (iii) this notification will not apply in relation to any income being profits and gains of business, unless the business is incidental to the attainment of the objectives of the assessee and separate books of accounts are maintained in respect of such business;

[No. 8793/F. No. 197/1/90-IT(A.I)]

(आवकर)

का. आ. 200.—आवकर अधिनियम, 1961 (1961 का 43) की भाग 10 के खण्ड (23C) के उपखण्ड (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केंद्रीय भरकार एवं द्वारा "बम्बेर्हायर्मनेंटरियन लीग, बम्बेर्ह" को कर-निधारण वर्ष 1990-91 से 1992-93 तक के लिए निम्नलिखित शर्तों के प्रधार्णीन रहने हुए उक्त उपखण्ड के प्रयोगनार्थ अधिसूचित करती है, प्रथम—

- (1) कर-निधारिती हसकी आय का इस्तेमाल अथवा हसकी आय का इस्तेमाल करते के लिए इसका संचयन पूर्णतया तथा अनन्यतया उन उद्देश्यों के लिए करेगा, जिनके लिए हसकी आयपता की गई है;
- (2) कर-निधारिती उपर-उल्लिखित कर-निधारण वर्षों से मंगत पूर्वी वर्षों की किसी भी अवधि के दीगल धारा 11 की उप-शारा (5) में विनिश्चित किसी एक अवधि एवं से प्रधिक वर्ग अवधानरीकों से इसकी निधि जेवर-जयाहिंगत, फर्नीचर आदि के रूप में प्राप्ति तथा रख-रखाव में स्वेच्छिक अवधान से भिन्न) का निवेश नहीं करेगा अथवा उसे जमा नहीं करया सकेगा;
- (3) यह अधिसूचना किसी ऐसी आय के मम्बन्ध में लागू नहीं होगी, जोकि कारोबार में प्राप्त याम तथा अधिलाल के रूप में हो जब तक कि ऐसा कारोबार उक्त कर-निधारिती के उद्देश्यों की प्राप्ति के लिए प्राप्तकेविक नहीं हो तथा ऐसे कारोबार के मम्बन्ध में व्यवहार में सेवा-युस्तिकां नहीं रही जाती हों।

[म. 8791/का. स. 197/170/90—आवकर (नि.-1)]

दर्शनप मिल, विशेष कार्य-प्रधिकारी

(INCOME-TAX)

S.O. 200.—In exercise of the powers conferred by sub-clause (iv) of clause (23C) of section 10 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby notifies "Bombay Humanitarian League, Bombay" for the purpose of the said sub-clause for the assessment years 1990-91 to 1992-93 subject to the following conditions, namely:—

- (i) the assessee will apply its income, or accumulate it for application, wholly and exclusively to the objects for which it is established;

- (ii) the assessee will not invest or deposit its funds (other than voluntary contributions received and maintained in the form of jewellery, furniture etc.) for any period during the previous years relevant to the assessment years mentioned above otherwise than in any one or more of the forms or modes specified in sub-section (5) of section 11;
- (iii) this notification will not apply in relation to any income being profits and gains of business unless the business is incidental to the attainment of the objectives of the assessee and separate books of accounts are maintained in respect of such business.

[No. 8791/F. No. 197/170/90-IT(A.I)]

DALIP SINGH, Officer on Special Duty

ऊर्जा मंत्रालय

(कोयला विभाग)

ग्रन्थिगत

तर्फ दिल्ली, 8 जनवरी, 1991

का. आ. 201.—भारत के राजपत्र भाग II, खण्ड 4 उपखण्ड (ii) तारीख 3 मार्च, 1990 में पृष्ठ 638 पर प्रकाशित भारत सरकार के ऊर्जा मंत्रालय, कोयला विभाग, की अधिसूचना का आ. 529 तारीख 31 जनवरी, 1990 में—

पृष्ठ 638 पर—

- 1 अनुसूची में "तेल वाला ब्लॉक" के स्थान पर "तेलवाला ब्लॉक" पड़िए। और "वाणी शेन्ट" के स्थान पर "वरणी शेन्ट" पड़िए।
- 2 सीमावर्णन में रेशा क-क में "आरभ" के स्थान पर "आरभ" पड़िए।
- 3 रेशा अन्य में "धान्नामा" के स्थान पर "होखामा" पड़िए और "स्थान" के स्थान पर "स्थान" पड़िए। शौर जहां कही यह पत्र प्रयुक्त हुआ हो उसी स्थान पर "होखामा और स्थान" पड़िए।

[का. स. 43015/17/89—प्र. पम. उल्लू.]

शूद्रिंगत

का. आ. 202.—भारत के अमाधारण राजपत्र तारीख 30 मई, 1990 के भाग II, खण्ड 3, उपखण्ड (ii) में पृष्ठ 1 से 2 पर प्रकाशित भारत सरकार ऊर्जा मंत्रालय, कोयला विभाग के अधिसूचना का. आ. सं. 418 (अ) तारीख 30 मई, 1990 में—

पृष्ठ 1 पर—

- 1 अधिसूचना में "तारीख 4 जून, 1985 में" के स्थान पर "तारीख 4 जून, 1988 में" पड़िए।
- पृष्ठ 2 पर—
- 2 अधिसूचना में "4 जून, 1990 से प्रारंभ" के स्थान पर "4 जून, 1990 से प्रारंभ" पड़िए।

[का. सं. 43015/1/89—प्र. पम. उल्लू]

## MINISTRY OF ENERGY

(Department of Coal)

## CORRIGENDUM

New Delhi, the 8th January, 1991

S.O. 202.—In the notification of the Government of India in the Ministry of Energy (Department of Coal) number S.O. 418(E), dated 30th May, 1990, published in the Extra-ordinary Gazette of India, dated 30th May, 1990, part II, section 3, sub-section (ii), at pages 2-3:—

at page 2, in the preamble for the words "hereinafter" read "hereinafter".

[No. 43015/4/88 LSW]

का. आ 203 —केन्द्रीय सरकार को यह प्रस्तुत होता है कि इसमें उपायक अनुसूची में उत्तिवित भूमि में कोयला अधिकार बिना जाने की प्रभावना है।

प्रस्तुत अनुसूची के अधिकार धारक धेनु (प्रजन और विकास अधिनियम, 1957 (1957 का 20) की भाग 4 की उपधारा (1) द्वारा प्रदत्त अधिकारों का प्रयोग करने हुए, उप क्षेत्र में कोयले का पूर्व-ध्येय करने के अपना आवाय की सूचना देती है;

इस अधिसूचना के अधीन आने वाले क्षेत्र के नेतृत्वक म.एम.ई. मी. एम./भी.एम.पी./ए.मी. एम.ई./ए.मी. एम.ई./लैड/75 तारीख 20 मित्रावर, 1990 का निरीश्वर माउथ हॉटेंट कोलफील्ड लिमिटेड (राजन्व अनुसार), सीपत रोड, बिलामपुर—495001 के कार्यालय में या कलवटर शहडोल/मरगुजा (मध्य प्रदेश) के कार्यालय में या कोयला नियन्त्रक, 1, काउन्सिल हाउस स्टीट, कलकत्ता के कार्यालय में किया जा सकता है।

इस अधिसूचना के अधीन आने वाली भूमि में हितवड़ सभी व्यक्ति उक्त अधिनियम की भाग 13 की उपधारा (7) में निर्दिष्ट सभी नक्शे आर्ट और अन्य दस्तावेज़, इस अधिसूचना के गतिवय में प्रकाशन की तारीख से नव्वे दिन के भीतर, उप मुक्त भागवा प्रबंधक साउथ हॉटेंट कोलफील्ड लिमिटेड, सीपत रोड, बिलामपुर को भेजेगे।

अनुसूची

कमिलधारा और तहवीकारी ब्लाक

जिला—शहडोल और मरगुजा

मध्य प्रदेश

स्थानक म.एम.ई.मी.एम./भी.एम.पी./ए.म.ई. आर.ए.मी.एम.ई./लैड/75  
तारीख 20 मित्रावर, 1990

(पूर्वेण के लिए अधिनियित भूमि दर्शाते हुए)

ध्याक "क"

क्र. सं.	ग्राम/मौजा	वरोदारस्त	तहसील	जिला	क्षेत्र	टिप्प-
संख्याक					(हैक्टरों में)	णिया
1	2	3	4	5	6	7
1	मिगुड़ी	५३५	कोटमा	शहडोल	५७८.०१४	संपूर्ण
2	उपडल	४२८	कोटमा	शहडोल	५५२.७६३	भाग
3	पारमपानी	५८६	कोटमा	शहडोल	१७४.७२७	भाग
4	तहवीटोला	५१८	कोटमा	शहडोल	३८.१९३	भाग
5	डोला	३९४	कोटमा	शहडोल	७७.८१०	भाग

भारत का राजपत्र जनवरी 26, 1991/मार्च 6, 1991

1	2	3	4	5	6	7
6	ओरीदड	१४८	मनेन्द्रगढ़	मरगुजा	५११.३३३	संपूर्ण
7	चनवाडी	४७	मनेन्द्रगढ़	मरगुजा	२७८.८०२	संपूर्ण
8	बौद्धाग	५७	मनेन्द्रगढ़	मरगुजा	३६५.५९१	संपूर्ण
9.	हल्दीबाड़ी			मनेन्द्रगढ़	मरगुजा	६५०.९११ भाग

कुल क्षेत्र : ३३२२८.१४४ हैक्टर (लगभग)

या ७९७६.७४ एकड़ (लगभग)

## मीमांसित :

क—ख

रेखा मरगुजा-शहडोल जिलों की मामाल्य मीमा पर बिन्दु "क" से आरम्भ होती है और शहडोल जिले में प्रवेश करके ग्राम डोला, तहवीटोला, पारमपानी, डोला तहसील में होकर जाती है, फिर भागत: ग्राम मिगुड़ी की पश्चिमी मीमा के माथ-माथ जाती है और बिन्दु "ब" पर मिलती है।

ख—ग

रेखा ग्राम मिगुड़ी की उपरी मीमा के माथ-माथ जाती है और बिन्दु "ग" पर शहडोल-मरगुजा जिलों का मामाल्य सीमा पर मिलती है।

ग—घ

रेखा ग्राम मिगुड़ी का उपरी मीमा के माथ-माथ जाती है और ग्राम बीरीदड़ की उत्तरी मीमा के साथ-साथ चलती हुई भागत: मरगुजा जिले में प्रवेश करती है और बिन्दु "घ" पर मिलती है।

घ—ङ

रेखा ग्राम बीरीदड़ तहवाडी की पूर्वी मीमा के माथ-माथ जाती है और बिन्दु "ङ" पर मिलती है।

ङ—क

रेखा ग्राम बीरीदड़ की उपरी मीमा साथ साथ जाती है और हल्दीबाड़ी आरक्षित बन से होकर जाती है और भारतीक बिन्दु "क" पर मिलती है।

भन्यगूची

डोला ब्लाक

हामदेव थेल

त्रिला शहडोल (मध्य प्रदेश)

ध्याक "ब"

क. स. ग्राम मौजा ब्रोडस्त तहसील ग्रिया क्षेत्र टिप्प-  
भवायाक (हैक्टरों में) ग्रिया

1 डोला 394 कोटमा शहडोल 8.903 भाग

कुल क्षेत्र : 8.903 हैक्टर (लगभग)

या 22.000 एकड़ (लगभग)

## मीमा धरणत :

ख—ङ—त—भ

रेखा बिन्दु "ब" से आरम्भ होती है और ग्राम डोला में होकर जाती है तथा बिन्दु "ङ" पर मिलती है।

अ—घ

रेखा भागत: डोला और रेवडा ग्रामों की मामाल्य मीमा के माथ-माथ जाती है और भारतीक बिन्दु "घ" पर मिलती है।

S.O. 203.—Whereas it appears to the Central Government that coal is likely to be obtained from the lands mentioned in the Schedule hereto annexed;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 4 of the Coal Bearing Areas (Acquisition and Development) Act, 1957 (20 of 1957), the Central Government hereby gives notice of its intention to prospect for coal therein.

The plan bearing No. SECL/BSP/ACMF/LER/LAND/75 dated the 20th September, 1990 of the area covered by this notification can be inspected at the office of the South Eastern Coalfields Limited (Revenue Section), Seepat Road, Bilaspur-495001 or at the office of the Collector, Shahdol/Surguja (Madhya Pradesh) or at the office of the Coal Controller, 1, Council House Street, Calcutta.

All persons interested in the land covered by this notification shall deliver all maps, charts and other documents referred to in sub-section (7) of section 13 of the said Act to the Dy. Chief Estate Manager, South East Coal field Limited, Seepat Road, Bilaspur within ninety days from the date of publication of this notification in the Official Gazette.

### SCHEDULE

#### KAPILDHARA & HALDIBARI BLOCK

District Shahdol & Surguja

(Madhya Pradesh.)

Plan No. SECL/BSP/LER/ACME/LAND/75

Dated 20th September, 1990

(Showing land notified for prospecting)

#### BLOCK 'A'

Sl. No.	Village/Mouja	Settlement Number	Tehsil	District	Area in Hectares	Remarks
1.	Sigudi	935	Kotma	Shahdol	578.014	Full
2.	Daldal	428	Kotma	Shahdol	552.763	part
3.	Parsapani	586	Kotma	Shahdol	174.727	part
4.	Naktitola		Kotma	Shahdol	38.193	part
5.	Dola	394	Kotma	Shahdol	77.810	part
6.	Bouridand	148	Manendragarh	Surguja	511.333	Full
7.	Chanwari	47	Manendragarh	Surguja	278.802	Full
8.	Choughara	57	Manendragarh	Surguja	365.591	Full
9.	Haldibari RF		Manendragarh	Surguja	650.911	part.
Total :					3228.144	hectares (approximately)
OR					7976.74	acres. (approximately)

#### BOUNDARY/DESCRIPTION:

A—B. Line starts from the common district boundary of Surguja-Shahdol on point 'A' and enters in Shahdol district passes through villages Dola, Naktitola, Parasapani, Daldal then partly along the western boundary of village Sigudi and meets at point 'B'.

B—C. Line passes along the northern boundary of village Sigudi and meets on the common district boundary of Shahdol-Surguja at point 'C'.

C—D. Line passes along the partly common district boundary of Shahdol-Surguja and enters in district Surguja partly along the northern boundary Bouridand village and meets at point 'D'.

D-E Line passes along the eastern boundary of villages Choughara, Chanwari and meets at point 'E'.

E-A Line passes along the southern boundary of village Chanwari, and through Haldibari reserved Forest and meets the starting point 'A'

**SCHEDULE**  
**DOLA BLOCK**  
**HASDEO AREA**  
**DISTRICT-SHAHDOL (MP)**

**BLOCK 'B'**

Sl. Village/Mouza No.	Settlement Number	Tehsil	District	Area in hectares	Remarks
1. Dola	394	Kotma	Shahdol	8 903	Part
			Total:-	8.903 hectares (approximately)	
			OR	22.00 acres (approximately)	

**BOUNDARY DESCRIPTION:**

F-G-H-I Line starts from point 'F' and passes through village Dola and meets at point 'I'.

I-F Line passes partly along the common boundary of villages Dola and Rewda and meets at the starting point 'F'.

[No. 43015/19/90-LSW]

**B.B. RAO, Under Secy.**

**रेल मंत्रालय**

( रेलवे बोर्ड )

नई दिल्ली, 8 जनवरी, 1991

का. आ 204 —राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम, 1976 के नियम 10 के उपनियम (2) भीर (4) के प्रनुभरण में रेल मंत्रालय, रेलवे बोर्ड, मध्य रेलवे के नियन्त्रित कार्यालयों को, जहाँ कर्मचारियों ने हिंदी का बार्यामाधक ज्ञान प्राप्त कर लिया है, अधिसूचित करता है।—

भोपाल मडल

- 1 स्टेनन अधीक्षक, भोपाल
- 2 स्टेनन अधीक्षक, बीना
- 3 स्टेनन अधीक्षक, व्यावरण ( राजगढ़ )
- 4 स्टेनन अधीक्षक, गजबासोदा
- 5 स्टेनन अधीक्षक, होशगाबाद
- 6 सहायक इंजीनियर, हरदा
- 7 मध्य रेल पथ निरीक्षक शाजापुर
- 8 गुरुग्राम पथ निरीक्षक, नारोदा

- 9 मुख्य रेल पथ निरीक्षक, विदिशा
- 10 मुख्य रेल पथ निरीक्षक ( उत्तर ) भोपाल
- 11 मुख्य रेल पथ निरीक्षक, ( दक्षिण ) भोपाल
- 12 मुख्य रेल पथ निरीक्षक, होशगाबाद
- 13 मुख्य रेल पथ निरीक्षक, बीना
- 14 मुख्य रेल पथ निरीक्षक, ( इटारसी ) याड़
- 15 मुख्य रेल पथ निरीक्षक, ( उत्तर ) हरदा
- 16 स्टेनन अधीक्षक, विदिशा
- 17 मुख्य रेल पथ निरीक्षक ( दक्षिण ) हरदा
- 18 मुख्य कार्य निरीक्षक, बीना
- 19 मुख्य कार्य निरीक्षक, भोपाल
- 20 मुख्य कार्य निरीक्षक, इटारसी
- 21 मुख्य कार्य निरीक्षक, इटारसी याड़
- 22 मुख्य कार्य निरीक्षक, हरदा
- 23 कैरिज बैगन अधीक्षक, बीना
- 24 " " नियाचपुर
- 25 मुख्य याड़ साम्प्टर बीना याड़

26. मुख्य याई मास्टर, निशातपुर,  
27. मुख्य याई मास्टर, इटारसी याई  
28. मुख्य सिगनल निरीक्षक, बीना  
29. मुख्य सिगनल निरीक्षक, भोपाल  
30. मुख्य सिगनल निरीक्षक, इटारसी  
31. मुख्य सिगनल निरीक्षक, आर आर आई, हाटारसी  
32. मुख्य सिगनल निरीक्षक, हरया  
33. लोको फोरमैन, बीना  
34. लोको फोरमैन, भोपाल  
35. निरीक्षक रेल सुरक्षा बल, बीना  
36. निरीक्षक रेल सुरक्षा बल, भोपाल  
37. निरीक्षक रेल सुरक्षा बल, इटारसी  
सोलापुर भंडल  
38. बरिष्ठ पुल निरीक्षक कार्यालय, सोलापुर  
39. विद्युत फोरमैन ( निर्माण ), मोलापुर  
40. मुख्य दूर संचार निरीक्षक, ( बेतार ), मोलापुर  
41. मुख्य नियंत्रक कार्यालय, सोलापुर  
42. स्टेशन मास्टर, बाले  
43. स्टेशन मास्टर पाकणी  
44. स्टेशन मास्टर, मुद्रवाडी  
45. स्टेशन मास्टर, भोहोल  
46. स्टेशन मास्टर, मसिकपेठ  
47. स्टेशन मास्टर, अनगर  
48. स्टेशन मास्टर, बाकाव  
49. स्टेशन मास्टर, माडा  
50. स्टेशन मास्टर, बडाशगे  
51. मुख्य सिगनल निरीक्षक ( भनु. ) कुरुवाडी  
52. महायक इंजीनियर ( श. ला. ), कुरुवाडी  
53. सहायक इंजीनियर ( ह्य. ला. ), कुरुवाडी  
54. चिकित्सा अधीक्षक, कुरुवाडी  
55. बरिष्ठ अनुभाग प्रधिकारी ( लेखा ), कुरुवाडी  
56. तुलाई मरीन निरीक्षक, कुरुवाडी  
57. डिपो भंडारी कार्यालय, कुरुवाडी  
57. डिपो भंडारी कार्यालय, कुरुवाडी  
58. स्टेशन मास्टर, डबलम  
59. स्टेशन अधीक्षक, केम  
60. स्टेशन मास्टर, भायवणी  
61. स्टेशन मास्टर, जेऊर  
62. रेलपथ निरीक्षक, जेऊर  
63. स्टेशन मास्टर, पोफलज  
64. स्टेशन मास्टर, बाशिदे  
65. स्टेशन मास्टर, पारेवाडी  
66. स्टेशन मास्टर, जिसिरोड  
67. स्टेशन अधीक्षक, पिंगवण  
68. स्टेशन मास्टर, मलठण  
69. स्टेशन मास्टर, बोरिवेल  
70. मुख्य याई मास्टर, दीड  
71. मुख्य दूर संचार निरीक्षक ( सूधम तरंग ) सोलापुर  
72. लोको फोरमैन, दीड  
73. सिगनल निरीक्षक-II, दीड  
74. स्टेशन मास्टर, पाटम  
75. स्टेशन मास्टर, केडांग  
76. स्टेशन मास्टर, यवत  
77. स्टेशन मास्टर, उल्की  
78. रेलपथ निरीक्षक, उरुली  
79. स्टेशन अधीक्षक, योणी

80. स्टेशन अधीक्षक, हडपसर  
81. स्टेशन मास्टर, काप्टी  
82. स्टेशन मास्टर, श्रीगंगांव रोड  
83. स्टेशन मास्टर, बेनवंडी  
84. स्टेशन मास्टर, विमापुर  
85. स्टेशन अधीक्षक, बारामती  
86. स्टेशन मास्टर, गङ्गामण्डप रोड  
87. स्टेशन मास्टर, विलद  
88. स्टेशन मास्टर, घोकालनेर  
89. स्टेशन मास्टर, सारोला  
90. स्टेशन मास्टर, बांबोरी  
91. स्टेशन मास्टर, राहुरी  
92. स्टेशन मास्टर, पड़ेगांव  
93. स्टेशन मास्टर, निपाणी वडांग  
94. स्टेशन अधीक्षक, बैलापुर  
95. भहा. उ. नि. रेल सुरक्षा बल, बैलापुर  
96. स्टेशन मास्टर, चितर्नी  
97. विद्युत फोरमैन, अहमदनगर  
98. सिगनल निरीक्षक, अहमदनगर  
99. स्टेशन मास्टर, सवत्त्वर  
100. स्टेशन अधीक्षक, कोपरगांव  
101. स्टेशन मास्टर, वेवला  
102. रेलपथ निरीक्षक, वेवला  
103. स्टेशन मास्टर, अंकाई  
104. स्टेशन मास्टर, अंकाई किला  
105. स्टेशन अधीक्षक, लाकुर  
106. कैरेज फोरमैन, लाकुर  
107. स्टेशन अधीक्षक, बार्सी टाऊन  
108. उप निरीक्षक ( रेल सुरक्षा बल ) बार्सी टाऊन  
109. रेलपथ निरीक्षक, बार्सी टाऊन  
110. रेलपथ निरीक्षक, पंचपुर  
111. स्टेशन अधीक्षक, पुणतांबा  
112. कैरेज फोरमैन, पड़रपुर  
113. स्टेशन अधीक्षक, मिरज "बी"  
114. कैरेज फोरमैन, मिरज "बी"  
115. स्टेशन मास्टर, महिमगांव  
116. स्टेशन मास्टर, उपलाई  
117. स्टेशन मास्टर, कुसलंब  
118. स्टेशन मास्टर, पांगरी  
119. स्टेशन मास्टर, गम्भीरग  
120. स्टेशन मास्टर, येडगी  
121. स्टेशन मास्टर, कर्वंग रोड  
122. मंडप मुख्य टिकट निरीक्षक, मोलापुर  
123. प्रभारी वाणिज्य निपिक, थेर  
124. स्टेशन मास्टर, पलसप  
125. स्टेशन मास्टर, मुळड  
126. प्रभारी वाणिज्य निपिक, निवर्नी  
127. स्टेशन मास्टर ग्रीसा रोड  
128. स्टेशन मास्टर, हरंगुल

129 स्टेशन मास्टर, नड्डा  
 130 स्टेशन मास्टर, मोडिनी  
 131 स्टेशन मास्टर, आटी  
 132 स्टेशन मास्टर, बामुलगांव  
 133 स्टेशन मास्टर, बामणी  
 134 स्टेशन मास्टर, बोहानी  
 135 स्टेशन मास्टर, मांगोला  
 136 स्टेशन मास्टर, चासुद  
 137. प्रभारी वाणिज्य लिपिक, जाथने  
 138. स्टेशन मास्टर, जनरोड  
 139. स्टेशन मास्टर, गुलबंधी  
 140. स्टेशन मास्टर, डालगांव  
 141 स्टेशन मास्टर, लंगरपेठ  
 142. स्टेशन मास्टर, कवडेमहांकाल  
 143 स्टेशन मास्टर, धगणधुलगांव  
 144 स्टेशन मास्टर, मलगरे  
 145 स्टेशन मास्टर, अरग  
 146. प्रभारी वाणिज्य लिपिक, बेंग  
 147 प्रभारी वाणिज्य लिपिक, बोलवड  
 148 स्टेशन मास्टर, टिकेकरवडी  
 149 स्टेशन अधीक्षक, होटोरी  
 150. स्टेशन मास्टर, तिलाटी  
 151 स्टेशन मास्टर, अक्कलकोट रोड  
 152 स्टेशन मास्टर, दुधनी  
 153 रेलवे निरीक्षक, दृधनी  
 154 स्टेशन मास्टर, कुलानी  
 155 स्टेशन मास्टर, गणगोपुर रोड  
 156 स्टेशन अधीक्षक, गुलबगी  
 157 स्टेशन अधीक्षक, शाहाबाद  
 158 स्टेशन यार्ड मास्टर, बाडी  
 159 नगर 7 गालिड्वा अधीक्षक, बाढी

[सं. शिर्दी-- 91/रा. भा./1/12/1]

मसीहुज्जमां, मन्त्रिव, रेलवे बोर्ड पर्स

पदन संयुक्त मन्त्रिय

#### MINISTRY OF RAILWAYS

(Railway Board)

New Delhi, the 8th January, 1991

S.O. 204.—In pursuance of sub-Rules (2) and (4) of Rule 10 of the Official Languages (Use for the Official purposes of the Union) Rules, 1976 the Ministry of Railways (Railway Board), hereby, notify the following Offices of Central Railways, where the staff have acquired the working knowledge of Hindi—

#### BHOPAL DIVISION

1. Station Superintendent, Bhopal
2. Station Superintendent, Bina

3. Station Superintendent, Vyavara (Rajgarh)
4. Station Superintendent, Ganj Basoda
5. Station Superintendent, Hoshangabad
6. Asstt. Engineer, Harda
7. Chief P.W. I, Shajapur
8. Chief P.W. I, Basoda
9. Chief P.W. I, Vidisha
10. Chief P.W. I. (North) Bhopal
11. Chief P.W. I. (South) Bhopal
12. Chief P.W. I, Hoshangabad
13. Chief P.W. I, Bina
14. Chief P.W. I, Itarsi Yard
15. Chief P.W. I. (North) Harda
16. Station Superintendent, Vidisha
17. Chief P.W. I. (South), Harda
18. Chief Works Inspector, Bina
19. Chief Works Inspector, Bhopal
20. Chief Works Inspector, Itarsi
21. Chief Works Inspector, Itarsi Yard
22. Chief Works Inspector, Harda
23. Carriage Wagon Superintendent, Bina
24. Carriage Wagon Superintendent, Nishatpura
25. Chief Yard Master, Bina Yard
26. Chief Yard Master, Nishatpura
27. Chief Yard Master, Itarsi Yard
28. Chief Signal Inspector, Bina
29. Chief Signal Inspector, Bhopal
30. Chief Signal Inspector, Itarsi
31. Chief Signal Inspector, RRI, Itarsi
32. Chief Signal Inspector, Harda
33. The Loco Foreman, Bina
34. The Loco Foreman, Bhopal
35. The Inspector, R.P.F., Bina
36. The Inspector, R.P.F., Bhopal
37. The Inspector, R.P.F., Itarsi

#### SHOJI APUR DIVISION

38. Si Bridge Inspector, Sholapur
39. Electrical Foreman (Works), Sholapur
40. Chief Telecommunication Inspector, (Wireless), Sholapur
41. Chief Controller, Sholapur
42. Station Master, Bale
43. Station Master, Pakni
44. Station Master, Mundhewadi
45. Station Master, Mohol
46. Station Master, Malik-Peth
47. Station Master, Angar
48. Station Master, Vakav
49. Station Master, Madha
50. Station Master, Wad sing
51. Chief Signal Inspector (Maintenance), Kurduvadi
52. Asstt. Engineer (NG), Kurduvadi
53. Asstt. Engineer (BG), Kurduvadi
54. Medical Superintendent, Kurduvadi

55. Sr. Section Officer (Asst), Kurduvadi  
 56. Weighing Machine Inspector, Kurduvadi  
 57. Dep't Store Keeper, Kurduvadi  
 58. Station Master, Dhavalas  
 59. Station Superintendent, Kem  
 60. Station Master, Bhalvani  
 60. Station Master, Jeur  
 61. Station Master, Jeur  
 62. Permanent Way Inspector, Jeur  
 63. Station Master, Pophlaj  
 64. Station Master, Washimbe  
 65. Station Master, Parewadi  
 66. Station Master, Jinti Road  
 67. Station Superintendent, Bhigwan  
 68. Station Master, Malthan  
 69. Station Master, Boribel  
 70. Chief Yard Master, Daund  
 71. Chief Telecommunication Inspector (Microwave), Sholapur  
 72. Loco Foreman, Daund  
 73. Signal Inspector II, Daund  
 74. Station Master, Patas  
 75. Station Master, Kedgaon  
 76. Station Master, Yevat  
 77. Station Master, Uruli  
 78. Permanent Way Inspector, Uruli  
 79. Station Superintendent, Loni  
 80. Station Superintendent, Hadrasar  
 81. Station Master, Kashti  
 82. Station Master, Srigonda Road  
 83. Station Master, Belwandi  
 84. Station Master, Visapur  
 85. Station Superintendent, Barajmati  
 86. Station Master, Ranjgangaon Road  
 87. Station Master, Vilad  
 88. Station Master, Akolner  
 89. Station Master, Sarola  
 90. Station Master, Vambori  
 91. Station Master, Rahuri  
 92. Station Master, Padegaon  
 93. Station Master, Nipani Vadgaon  
 94. Station Superintendent, Belapur  
 95. Asstt. Sub Inspector RPF, Belapur  
 96. Station Master, Chitli  
 97. Electric Foreman, Ahmednagar  
 98. Signal Inspector, Ahmednagar  
 99. Station Master, Sanvatsar  
 100. Station Superintendent, Kopergaon  
 101. Station Master, Yeola  
 102. Permanent Way Inspector, Yeola  
 103. Station Master, Ankai  
 104. Station Master, Ankai Fort  
 105. Station Superintendent, Latur  
 106. Carriage Foreman, Latur  
 107. Station Supdt., Barshi Town  
 108. Sub Inspector (RPF), Barshi Town  
 109. Permanent Way Inspector, Barshi Town  
 110. Permanent Way Inspector, Pandharpur  
 111. Station Supdt., Puntamba  
 112. Carriage Foreman, Pandharpur  
 113. Station Supdt., Miraj 'B'  
 114. Carriage Foreman, Miraj 'B'  
 115. Station Master, Mahisgaon  
 116. Station Master, Uplai  
 117. Station Master, Kuslumb  
 118. Station Master, Pangri  
 119. Station Master, Ramling  
 120. Station Master, Yedsi  
 121. Station Master, Chumb Road  
 122. Chief Divl. Ticket Inspector, Sholapur  
 123. Commr. Clerk Incharge, Ther  
 124. Station Master, Palsap  
 125. Station Master, Murud  
 126. Commr. Clerk Incharge, Niwli  
 127. Station Master, Ausa Road  
 128. Station Master, Harangul  
 129. Station Master, Laul  
 130. Station Master, Modnimb  
 131. Station Master, Ashti  
 132. Station Master, Babhulgaon  
 133. Station Master, Ban ni  
 134. Station Master, Bohali  
 135. Station Master, Sangola  
 136. Station Master, Vasud  
 137. Commr. Clerk Incharge, Javle  
 138. Station Master, Jatroad  
 139. Station Master, Gulvanchi  
 140. Station Master, Dhalgaon  
 141. Station Master, Langerpeth  
 142. Station Master, Kavathe Mahankal  
 143. Station Master, Agran Dhulgaon  
 144. Station Master, Salgrey  
 145. Station Master, Arag  
 146. Commr. Clerk Incharge, Bedag  
 147. Commr. Clerk Incharge, Bolwad  
 148. Station Master, Tikekarwadi  
 149. Station Supdt., Hotgi  
 150. Station Master, Tilati  
 151. Station Master, Akkalkot Road  
 152. Station Master, Dudhni  
 153. Permanent Way Inspector, Dudhni  
 154. Station Master, Kulali  
 155. Station Master, Ganagapur Road  
 156. Station Supdt., Gulbarga  
 157. Asstt. Engr. Shahabad  
 158. Chief Yard Master, Wadi  
 159. Carriage & Wagon Supdt., Wadi.

[No. Hindi-91/OL-I/12/1]

MASIHUZZAMAN, Secy. Railway Board  
and Ex. Officio Lt. Secy.

धर्म मत्रालय

नई दिल्ली, 27 दिसम्बर, 1990

का. ना. 205—भौद्योगिक विवाद 'प्रधिनियम, 1947 (1947 का 14) की भारा 17 के प्रत्यक्षरण में, केन्द्रीय सरकार इंडियन रेसर प्रयोग सेल, कोलम के प्रबन्धताल के सबदू नियोजकों और उनके कर्मकारों के बीच, प्रत्यक्ष में नियिष्ट भौद्योगिक विवाद में भौद्योगिक प्रधिकरण, कोलम के प्रबन्ध को प्रकाशित करती है, जो केन्द्रीय सरकार को 27-12-1990 को प्राप्त हुआ था।

## MINISTRY OF LABOUR

New Delhi, the 27th December, 1990

S.O. 205.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal, Kollam as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Indian Rare Earths Ltd., Kollam and their workmen, which was received by the Central Government on 27-12-90.

## ANNEXURE

IN THE COURT OF THE INDUSTRIAL TRIBUNAL,  
KOLLAM

(Dated, this the 11th day of December, 1990)

PRESENT :

Sri C. N. SASIDHARAN, Industrial Tribunal

IN

Industrial Dispute No. 14/87

## BETWEEN

The Divisional Manager, Indian Rare Earths Ltd., Minerals Division, P.B. No. 38, Beach Road, Kollam.

(By M/s. Menon &amp; Pai, Advocate, Ernakulam).

AND

The General Secretary, Kerala Minerals Employees' Union (UTUC) (S), Chavara P.O., Kollam Distt., Kerala.

(By Sri G. Sethunathan Pillai, Advocate, Kollam).

## REVISED AWARD

The Government of India by Order No. L-43012/13/85-D. V, dated Nil has referred the above dispute for adjudication to this Tribunal.

The issue referred is :

"Is Kerala Minerals Employees Union justified in demanding regularisation of services of S/s. E. Jhon, K. K. Kunchandy Vaidyan and P. Anthony, Casual Tally Clerks as Tally Clerks? If justified to what relief the workmen are entitled?"

2. Both sides have filed statements advancing their respective contentions and adduced detailed evidence. On a consideration of all the materials this Tribunal passed an award on 8-7-1988 partially in favour of the union. The direction of this Tribunal as per that award is as under: "In the result the management is directed to consider the claims of S/s. John, K. K. Kunchandy Vaidyan and P. Antony as per Ex. W11 and W12 representation submitted to the management and regularise their service according to seniority without reinstatement. The management shall also pay them monetary benefits if any that might accrue to them on the basis of fixation of seniority as directed above. The benefits thus accrued to Sri Kunchandy Vaidyan shall be paid to his legal representatives".

3. The above award of this Tribunal was challenged before the High Court by the management and the High Court as per judgment dated 6-8-1990 set aside the award passed by this Tribunal and remanded the case for a *denovo* consideration and disposal. That is how this case is now before this Tribunal. After remand no evidence has been adduced by both sides, though opportunities have been granted to them.

4. I shall now state the contentions advanced by the parties as per their statements filed here earlier. The case pleaded by the union is briefly as under: The three workmen involved in this reference are working in the management company since 1968 and Sri Kunchandy Vaidyan died in the year 1985. The usual procedure prevailed in the company for appointing tally clerks on regular basis was to confirm the casual tally clerks on the basis of seniority and experience. But the management in the year 1984, when certain vacancies of tally clerks arose tried to break up existing practice and procedure. The workman herein challenged this before the High Court of Kerala and the High Court ordered the management to decide the claims of these workmen regarding seniority and experience. But the management in order to by-pass the order of the High Court, conducted a mock interview and selected some other persons as tally clerks without even informing these workmen about the interview. These workmen were not given any chance to put forward their claims of seniority and experience. The interview was not proper and violative of the provisions of recruitment of employees. According to the union the action of management is illegal, unjustifiable and it amounts to victimisation and unfair labour practice.

5. The management opposes the claims of workmen. The case pleaded by the management is briefly as under: The issue referred for adjudication is not an industrial dispute and hence the reference is bad in law. The regularisation of services is the prerogative of the management and it cannot be the subject matter of an industrial dispute. Ilmenite is the main item exported by the management company to various countries through Neendakara Port. The shipping season for export lasts only for a few months normally from October to April. Since the exporting work is seasonal in nature, the same is being arranged through contract system. The contractor employs his own workmen. The management deployed a skeleton staff consisting of security guards, casual tally clerks etc. during shipping season at the port area. The shipping season starts from October and there will be work for the casual tally clerks for about 90 to 120 days in a season. There were only less than 50 days work during 1986-87 and the wages of casual tally clerks are being paid at the rates fixed for the relevant seasons. In the year 1984 when vacancies of six permanent tally clerks arose the management published the interview notice in the notice board. Individual notices were also served to all the casual tally clerks including the persons involved here. But they refused to acknowledge receipt of the interview and they did not attend the interview. As per the judgment of the High Court in O.P. No. 212/84 referred to above, the persons under reference had to make claim showing their seniority to the management. But, except Sri N. Krishnankutty all the persons under reference did not turn up for interview. The management prepared a rank list on the basis of interview. By letter dated 5-6-1984, the management intimated the claimants Sh. E. John, K. K. Kunchandy Vaidyan and P. Antony, they had not complied the direction of the High Court and did not satisfy their claim in pursuance of the directions of the High Court. The management had issued appointment orders to the first 6 in the rank list since the management had no other alternative than to appoint the persons selected in the interview. These three persons under reference have no legal claims for appointment as permanent tally clerks with effect from 1984. These three persons were being employed only for a few days for shipping work which is casual. The permanent tally clerks are doing shipping work as well as other works in side the plant. At present the three persons are not working under the management. Sri. Kunchandy Vaidyan is no more. Their regularisation does not therefore arise and the reference is not maintainable. Tally clerks were recruited only after conducting interview and tally clerks are not made permanent on the basis of seniority and experience. The selection of tally clerks in 1984 was strictly in compliance with the procedure and

practice, in vogue. The persons under reference were given adequate opportunity to attend the interview. The Janatha Workers Union on 19-1-1984 written to the management that there is no point in interviewing the above persons which shows that they were aware of the interview. There is no victimisation or unfair labour practice. They did not attend the interview and hence they were not considered for selection to the permanent post. It is further contended that the Janatha General Workers Union, Chavara had raised a similar issue before the Industrial Tribunal, Tamil Nadu, and it was decided by award dated 27-3-1983 that the workers are not justified in demanding employment with the management as a matter of right. The workers cannot raise the very same issue further. The reference itself is therefore bad in law.

6. The union denied the case advanced by the management and reaffirmed its case in the replication. It is further contended in the replication that the reference is made in accordance with the provisions of Industrial Disputes Act, 1947 and the union has every right and locus standi to represent the workmen who are members of this union. The contractor for shipping work has no right to employ his own workmen. There are about 1200 workers whose names are registered at the Neendakara Port and the management company and they alone have the right of doing the shipping and other connected works. The workers engaged in the shipping work are also covered under the Employees Provident Fund Scheme. The shipping season lasts for eight months for every year. The tally clerks are deputed to the shipment field during shipment and they are employed for other works during the other periods. The death of Sri Kunchandy Valdyan or the non employment of Sri John and Sri. Antony will not affect the maintainability of the reference because the demand is raised by the union. The further case of union is that these workers were not parties in the Award of the Industrial Tribunal, Tamil Nadu and the Award is not binding on these workmen.

7. The union has examined 5 witnesses as WW1 to WW5 and Exts. W1 to W14 have been marked on its side. No oral evidence has been adduced by the management. However Exts. M1 to M8 have been marked on its side. No evidence has been adduced by the parties after remand. Counsel on both sides argued the case. After remand the management counsel has filed argument notes also.

8. The management has raised three preliminary objections. The first objection of the management is that the issue referred for adjudication is not an industrial dispute and hence the reference itself is bad in law. The High Court has set aside the award of this Tribunal on the ground that this point was not considered at the time of passing the earlier award. The High Court has considered this point alone and set aside the award and remanded for a de novo consideration. The learned counsel for the management Sri Keshi would contend that regularisation of service of employees is the prerogative of the management and it cannot be the subject matter of an industrial dispute. Hence according to the learned counsel this reference is bad in law. The issue referred for adjudication is as to whether the union is justified in demanding regularisation of service of three employees as casual tally clerks. Admittedly the employees were working as casual tally clerks. It is not proved or established that there was any agreement between the management and the unions to regularise these employees. It is also not established that the employees in question had any vested right to be regularised in service. There is also no evidence to the effect that these workmen had worked 240 days in a year and also that there is any agreement to appoint them on permanent basis. It is also not shown that there is any statutory right for them to get permanency or get appointment in the management company. Further out of the three workmen Sri Kunchandy Valdyan has already expired and Sri John and Sri P. Antony reached the age of superannuation. Hence the question of giving them any relief in the shape of reinstatement in service does not arise. The appointment of tally clerks on a permanent basis is of course the prerogative of management. How the appointment is to be made and how the business is to be done are also the prerogative of the management. Management is the best person to decide these aspects. No provision of law or Rule compelling management to regularise the casual tally

clerks or give them permanent appointment as tally clerks have been brought to my notice by the learned counsel for the union. It is also not established that the workmen have any legal right for regularisation. The interview and the subsequent appointment in this case was done for permanent tally clerks and there is nothing on record to show that it was a promotion. These circumstances make the position clear that what the management has done was appointment of permanent tally clerks and not the promotion of casual tally clerks. In these circumstances the question of regularisation of service does not arise at all. On this ground the issue referred for adjudication cannot be subject matter of an industrial dispute and hence the reference is bad in law.

9. The second objection is that the claim of the union for regularisation of the three workmen in question has become infructuous, as two of them retired from service and another expired. As I have stated in the earlier paragraph the appointment of permanent tally clerks is not a promotion post. There was no agreement or statutory provision that these casual tally clerks should be given regular appointment on the basis of seniority. Regularisation in service can be done only if the workmen were in service during the time of adjudication. Admittedly they were not in service during adjudication. That being the case the question of regularisation of these workmen in service does not arise and the workmen are not entitled to any monetary benefit as well since they did not work as regular tally clerks. Therefore the reference has become infructuous a pleaded by the management.

10. The third objection is that this case is not maintainable due to non joinder of necessary parties. The case of management is that the union has not impleaded the workmen who were made permanent by passing the claim of the workmen in question and that they are necessary parties in this proceeding. This contention was not raised by the management at the appropriate stage. However if the presence of the persons not impleaded is essential for decision of the issue, they may be impleaded. But their presence is not essential as far as this case is concerned as I will show presently. The persons, who according to the management, are to be impleaded are the persons who were given permanency over the claims of the three workmen. It is admitted that two of them retired from service and another has expired. So the question of giving them any benefit to the disadvantage of their workmen mentioned above does not arise. The benefits the retired two workmen and the expired one may get, if they succeed in this proceeding, can only be of monetary nature which will affect only the management and not the persons who were made permanent. Hence I do not think that they need be impleaded in this case. This objection of management is also devoid of merits.

11. Since the High Court has remanded the case for a de novo consideration, I shall consider the other contentions advanced by the parties as well. This Tribunal has passed the earlier award on the basis that the High Court in OP No. 212/84 held that senior should be appointed and the workers should be regularised as they are seniors. The learned counsel for the management has pointed out that the High Court in OP No. 212/84 has not directed the management to take the petitioners on the basis of seniority. The High Court has observed that according to the petitioners in that case i.e. the workmen before this Tribunal, they were seniors and if any such claim is made by the petitioners that is to be decided by the management. There was no direction to the effect that the petitioners should be appointed as tally clerks since they are seniors. Now the question is whether they are entitled to be regularised in service as claimed by the union. Admittedly the workmen were employed as casual tally clerks during the shipping season. As I have stated earlier there is no agreement or understanding between the parties to make these workmen as permanent tally clerks. There is also nothing to show that the post of permanent tally clerks is a promotion post. Now the contention advanced on behalf of the union that as per the direction of the High Court the management has not considered the claim of the workmen. According to the learned counsel for the union the union submitted two representations to the management, Exts. W11 and W12 on the basis of the judgment of

the High Court which was marked as Ext. M2 in this case earlier. Ext. M2 judgment was pronounced on 10-1-1984. Ext. W11 representation was submitted by the union on only on 20-6-1984 and that too in answer to Ext. M4 letter sent by the management to Sri. John, informing him that he did not satisfy the management his claim for seniority in pursuance of the direction of High Court that he did not turn up for the interview fixed by the management and that the management has no other alternative than to appoint the persons selected after interview. The main request in Ext. W11 was to publish seniority list of tally clerks before appointing the senior most of them. Ext. W12 representation is dated 31-1-1984. In Ext. W12 also the main request was to publish seniority list of the tally clerks as it there was such a direction from High Court. There was no such direction. As I have stated earlier the appointment of permanent tally clerks was not a promotion from the casual tally clerks. Hence the publication of seniority list of tally clerks has nothing to do with the appointment of permanent tally clerks. The interview fixed for the selection of permanent tally clerks was on 18-1-1984. According to the general manager of the company who was examined as the witness of the union as WW3 in this case all tally clerks were given notice and notices were published in the notice board for the interview as it was an internal appointment. He has also deposed that one of the workmen involved in OP No. 212/84 sued before the High Court also appeared for the interview. It has come out in evidence through WW3 that except the three workmen involved in this case all other casual tally clerks appeared for the interview and the three workmen refused to attend the interview. It is evident from the petitions and other correspondence exchanged by the workmen that according to them there was no necessity to appear for the interview and without an interview they should be appointed on the basis of seniority alone. Ext. M5 failure report of the conciliation officer also shows their contentions. There also they have not raised the contentions that they were not served with interview notice. The contention of the union as per Ext. W12 letter and claim statement is that interview was not necessary and they have not stated in the claim statement that interview notices were not served. So the present contention that they were not served with interview notices can only be an after thought. Further there was no direction in Ext. M2 judgment of High Court in OP No. 212/84 to appoint these workmen as permanent tally clerks on the basis of seniority. There is also nothing on record to show that the management is bound to give notice to casual tally clerks for interview in the appointment of permanent tally clerks. The general manager who was examined as the unions witness has categorically deposed that the appointment of permanent tally clerks is not a promotion post at all and that first appointment was made on the basis of interview. This witness has given evidence in support of the contentions of management. The evidence of this witness remains uncontested. This witness was not declared hostile by the union and no reasons have been pointed out to disbelieve this witness. Since there is nothing on record to show that the post of permanent tally clerks is a promotion post as claimed by the workmen and that seniority in casualness was a criterion for appointment their claim for regularisation in that post cannot be considered at all.

12. It is not proved or established that the workmen involved in this case had worked for 240 days in a year. The union has no such case also. According to the management the workmen did not work for more than 90 days in a year as they were employed for shipping season only. That being so there is no continuous service. Even if there was continuous service they have no right to get regular employment as they have no legal or contractual right to get permanent employment or to get regular employment. Though they have claimed that they were seniors before the High Court in OP No. 212/84 the High Court has not considered that aspect. The High Court has directed that if the union make a representation that should be considered. Such a direction will not confer any right on the workmen to get appointment as permanent tally clerks. There is no direction that they should alone be considered for employment or only senior should be regularised. Since it is not proved or established that they have any statutory right to be promoted as permanent tally clerks they are not entitled to get any relief.

13. There is no rule of right for the tally clerks to be made permanent on the basis of seniority as claimed by the union. Exts. W11 and W12 representations also were to the effect that the seniority is to be considered and no right has been established by the workmen to regularise them on the basis of seniority alone. As deposed by WW5 the work of permanent tally clerks and temporary tally clerks are different. There are other casual tally clerks and other casual workers. If any relief is given to the workmen in question that will create unnecessary problems, and will upset the working of the management company.

14. It is now settled position of law that casual employees and temporary employees have no right to get permanent employment. The learned counsel for the management brought to the notice of this tribunal three decisions on this point. The first one is the decision of the High Court of Madras in Crompton Engineering Co. Vs. Adt. Labour Court [1973 (1) LLJ 207]. In that case the management had employed three persons temporarily for a specific period or in respect of a contract work undertaken by the management. Those persons were employed for several such periods and for several such contracts. The workmen raised an industrial dispute on the allegation that they were not given any work with effect from a particular date. The Labour Court found that they were 'workmen' as defined in Sec. 2(5) of Industrial Disputes Act ('the Act for short') and hence they are entitled to be reinstated in service. The matter finally came before the High Court. The High Court quashed the award of Labour Court holding that there is no principle or provision of law entitling a casual workman to reinstatement simply because he was so employed on more than one occasion or he so worked for a long period of time. The second authority cited was the decision of the Supreme Court in Union of India & Another V. Sri R. C. D'Souza [1987 (1) LLJ 507]. There one retired Army Officer was appointed as Asst. Commandant in the Central Reserve Police Force for a period of three years and subsequently promoted as commandant on temporary basis. He had worked in that promotional post for Sixteen years on temporary basis. The question arose whether he was entitled to claim absorption. The Supreme Court in para. 8 held thus :

8. "It is a fact that the respondent has been given a promotion and in the promotional post he has worked for about 16 years. On the basis of such promotion on temporary basis the respondent would not be entitled to absorption as well. The respondent was being continued in the promotional post by orders of the President from time to time which is clearly indicative that the arrangement was on temporary basis."

The third decision relied on by the management's counsel is that of the High Court of Kerala in Writ Appeal No. 640/89 between Sri. C. I. Sebastian and Others Vs. The Indian Air Lines and Others (unreported decision). The issue involved in that case was retrenchment of casual workers and whether they were entitled to any relief. After referring the relevant provisions in Chapter V-A of the Act the High Court held that casual workers have no right for regularisation and the maximum right they can claim is to get casual work whenever such work is available. This decision has been upheld by the Supreme Court in Special Leave petition No.(s) 11413-14 of 1990 dated 23-10-1990 (A photocopy of the order of Supreme Court was produced by the management's counsel).

The three workmen in the instant case worked till superannuation or death as casual tally clerks. Hence the above decisions squarely applies to the instant case and thus the workmen before me are not entitled to the relief prayed for by them.

15. In the result an award is passed holding that this industrial dispute is not maintainable and that S|Shri E. John, Kunchandy Vaideyan and P. Anthony are not entitled to get any relief claimed by the union much less regularisation in service.

## APPENDIX

Witnesses examined on the side of the Workmen

WW-1—Sri E. John Fernandez

WW-2—Sri P. Haridas

WW-3—Sri P. Anthony Fernandez

WW-4—Sri K. Damodaran Pillai

WW-5—Sri N. Rajagopalan Nair.

Documents marked on the side of the Workmen

Ext. W-1—Copy of paper publication.

Ex. W-2—True copy of letter given to the management company by Sri John Fernandez on 16-1-1984.

Ext. W-2A—Copy of letter addressed to Sri John from Sri Ramkumar, Advocate, Cochin.

Ext. W-3—Copy of letter produced by the company before the Labour Court, Kollam in CP No. 21/84.

Ext. W-4—Copy of office memo issued by the Personnel and Administrative Officer of the company on 12-1-1984.

Ext. W-5—Copy of claim petition No. 21/84 (c) filed before Labour Court, Kollam.

Ext. W-6—Copy of letter issued to the Janatha General Workers Union from the Divisional Manager of the company on 3-7-84.

Ext. W-7—Letter issued to Sri Innocent from the company appointing him tally clerks.

Ext. W-8—Memo of appointment issued to Sri Anthony Fernandez from Travancore Minerals Private Ltd. on 1-11-1960.

Ext. W-9—Permit card issued to Sri Kunchandy Vaidyan from the Customs Collector on 5-7-1958.

Ext. W-10—Permit card issued to Sri Kunchandy Vaidyan on 13-11-1959.

Ext. W-11—Xerox copy of representation submitted to the Divisional Manager of the company by the Janatha General Workers Union on 20-6-1984.

Ext. W-12—Office copy of representation submitted to the Divisional Manager of the company by the Janatha General Workers Union on 31-1-1984.

Ext. W-13—Xerox copy of annual statement for the year ending 31-1-1986 of shipping employees General Provident Fund regarding Sri P. Karunakaran.

Ext. W-13A—Xerox copy of Employees General Provident of shipping contract workers for the season 1984-85 regarding Sri P. Karunakaran.

Ext. W-14—Certified copy of deposition of Asst. Manager of the company in I. D. 17/84.

Documents marked on the side of the Management

Ext. M-1—Muster Roll for the period 11-4-1982 to 28-10-1987.

Ext. M-2—Xerox copy of judgment of High Court of Kerala in OP No. 212/84 dated 10-1-1984.

Ext. M-3—Xerox copy of letter given to the management by the Janatha General Workers Union on 19-1-1984.

Ext. M-4—Xerox copy of letter given to Sri E. John from the management company on 5-6-1984.

Ext. M-5—Copy of failure of conciliation report sent to the Secretary to Government of India Ministry of Labour by Asst. Labour Commissioner (Central) Trivandrum on 5-3-1985.

Ext. M-6—Xerox copy of Award in I. D. 71/84 of Industrial Tribunal, Tamil Nadu dated 27-3-1983.

Ext. M-7—Xerox copy of order dated 1-3-1987 of Supreme Court of India in Special Leave Petition (Civil) No. 12929 of 1985.

Ext. M-8—Statement submitted by management company.

नई विस्ती, 1 जनवरी, 1991

का. ना. 206 —शैक्षणिक विवाद मध्यिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एसेसिएटिड सीमन्ट कम्पनीज लि., चन्दा सीमन्ट वर्क्स के प्रबन्धतंत्र के सबूत नियोजकों और उनके कमेकारों के बीच, मनुष्यों से निविष्ट शैक्षणिक विवाद में जो एम. एन. चंद्रकर, भूतपूर्व-मृद्यु न्यायाधीश, बम्बई और मद्रास हाईकोर्ट और मध्यस्थ के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 31-12-90 को प्राप्त हुआ था।

New Delhi, the 1st January, 1991

S.O. 206.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of Shri M. N. Chandurkar, Ex-Chief Justice, High Court of Bombay and Madras and Arbitrator as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Associated Cement Cos. Ltd., Chanda Cement Works and their workmen, which was received by the Central Government on 31-12-1990.

## ANNEXURE

BEFORE THE HON'BLE ARBITRATOR SHRI M. N. CHANDURKAR

In the matter of Arbitration under Section 10-A of the Industrial Disputes Act, 1947 regarding dispute relating to demand of General Secretary, Vidarbha Stone Mine Workers' Union for holding enquiry and grant suitable punishment to Shri Surat Singh, Havildar for alleged misbehaviour.

## BETWEEN

The Associated Cement Cos. Ltd. Chanda Cement Works.

## AND

Vidarbha Stone Mine Workers' Union.

## AWARD

In pursuance of the Arbitration Agreement published under Section 10-A(3) of the Industrial Disputes Act, 1947 by the Government of India, Ministry of Labour on 26th of July, 1990, the following dispute was referred to me for arbitration :—

“Whether the demand of General Secretary, Vidarbha Stone Mine Workers' Union, Sindola Limestone Mines, Yeotmal District, asking the Management of ACC Ltd. for holding enquiry and grant suitable punishment to Shri Surat Singh, Havildar for alleged misbehaviour with the wife of Shri Prithvi-chand Chopra, Watchman on 27-1-90 is proper, valid and legal ? If so, then what action is to be taken in the matter ?”

2. Pursuant to the publication of the aforesaid Agreement, on direction being given a Statement of Claim was filed by the Vidarbha Stone Mine Workers' Union, Sindola Limestone Mines under the signature of the General Secretary. A Reply to the said Statement of Claim has been filed on behalf of the Management by the General Manager, Associated Cement Cos. Ltd., Chanda Cement Works, Sindola Limestone Mines.

3. In the Statement of Claim certain allegations of misbehaviour have been made against one Shri Surat Singh

and the demand of the Union is that suitable action should be taken against Shri Surat Singh in connection with the alleged misconduct and misbehaviour of Shri Surat Singh on 27-1-90. However, having regard to what has transpired during the pendency of these proceedings, it is not necessary to reproduce the allegations made by the Union against him.

4. The Management in their Reply, has taken the stand that the demand made by the Union is unjustified and that the alleged dispute referred to arbitration is not a dispute or difference between employers and workmen, which can be said to be connected with the employment or non-employment or the terms of employment or conditions of labour of any person. Thus, according to the Management, the terms of reference do not constitute an industrial dispute within the meaning of Section 2(k) of the I. D. Act, 1947. The Management has given its version of what actually happened on 27-1-90 and according to the Management an enquiry was conducted by the Senior Security Officer and it was found that the complaint against Shri Surat Singh was a cooked up story. The Management has also taken the stand that the investigation conducted by Shri H. L. Jain, Manager-Mining, showed that there is no prima facie case for taking any action against Shri Surat Singh.

5. Since it appeared that Shri Surat Singh was concerned with the alleged dispute and allegations were made against him, a Notice was issued to him and he was given an opportunity to file a Written Statement. The statement of Shri Surat Singh has been sent by him by post and was received by me on 13-12-90. Shri Surat Singh has taken the stand that he was not a party to the Arbitration Agreement and if there is any dispute between the workers' Union and the management, it could not be a subject matter of arbitration proceedings. He has also taken the stand that there was no dispute within the meaning of Section 2(k) of the I. D. Act, 1947. Without prejudice to these contention he has given his version of the alleged incident dated 27-1-90 and has alleged that he was being made a scapegoat because of his upright behaviour and diligence in performing his duties. He has also alleged that the Union had malafide intention to somehow implicate him and take revenge.

6. It is, however, not necessary to go into the truth or otherwise of the various versions which were given by the parties and Shri Surat Singh with regard to the alleged incident dated 27-1-1990. Today a Statement jointly signed by the President and General Secretary of the Union and the General Manager/Owner and the Deputy General Manager/Agent of Sindola Limestone Mines has been filed before me and it is stated in the said Statement that "Shri Surat Singh has already been transferred to Chanda Cement Works with effect from 9-11-90 and in view of the statement hereinabove, no dispute as per the terms of Reference dated 16-4-90 is prevailing now and it is therefore most humbly and respectfully submitted that 'No Dispute Award' may please be passed".

7. Mr. Joshi, General Secretary who has signed the joint application, is present today with his Counsel, Shri M. S. Nandanwar. It is admitted by him that Mr. D. N. Pardhi, President of the Union has signed the said joint statement. The signatures of Mr. N. N. Srivastava, General Manager and Mr. M. B. L. Bhargava, Dy. General Manager are also not in dispute. It is clear therefore that the Union has taken a very fair attitude in the matter of this dispute as much as Shri Surat Singh having already been transferred to Chanda Cement Works it has not thought fit to pursue the dispute originally raised by it. Having regard to joint statement filed before me, I declare that the dispute originally raised on behalf of the Union no longer subsists and these arbitration proceedings have become infructuous. A "No Dispute Award" is made accordingly. In view of the fair attitude taken by the Union, the Management is directed to pay a sum of Rs. 500 as costs of this Reference to the Union as a gesture of goodwill.

Bombay,

Dated : 15-12-1990.

M. N. CHANDURKAR, Arbitrator  
[No. L-29013/1990-IR (Misc.)]

का. आ. 207.—सौर्योगिक विवाद प्रबिनियम, 1947 (1947 का 14) का आरा 17 के अनुसरण में, केन्द्रीय सरकार विश्वासापनम पोर्ट ट्रस्ट विश्वासापनम के प्रबन्धता के सबूत नियोजकों और उनके कर्मकारों के बीच, मनुवंश में गिरिष्ट सौर्योगिक विवाद में भौद्योगिक प्रविकरण, हैवराकाव द्वारा पत्रपट को प्रकाशित करनी है, जो केन्द्रीय सरकार को 28-12-1990 को प्राप्त हुमाया।

S.O. 207.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal, Hyderabad as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Visakhapatnam Port Trust, Visakhapatnam and their workmen, which was received by the Central Government on 28-12-1990.

#### ANNEXURE

#### BEFORE THE INDUSTRIAL TRIBUNAL AT HYDERABAD

#### PRESENT :

Sri K. Faranath, B. Com., B.L., Industrial Tribunal.

Dated 23rd November, 1990

Industrial Dispute No. 63 of 1988

#### BETWEEN

The Workmen of Visakhapatnam Port Trust, Visakhapatnam. (A.P.)

AND

The Management of Visakhapatnam Port Trust, Visakhapatnam. (A.P.)

#### APPEARANCES :

Sri K. L. Narsimham, Counsel—for the Workmen.

Sri K. Srinivasa Murthy and Miss G. Sudha, Counsel—for the Management.

#### AWARD

The Government of India, Ministry of Labour by the Order No. L-34012/11/87-D.IV (A), dated 14-6-1988 referred the following dispute under Section 10(1)(d) and (2-A) of the Industrial Disputes Act, 1947 between the employer in relation to the Management of Visakhapatnam Port Trust and their workmen to this Tribunal for adjudication :

"Whether the action of the Management of Visakhapatnam Port Trust, Visakhapatnam, for termination of service of Sri Koya Venkata Rao, Peon, w.e.f. 17-6-76 without observing the principles of natural justice is justified? If not, to what relief the said workman is entitled?"

This reference was registered as Industrial Dispute No. 63 of 1988 and notices were issued to the parties.

2. In the claim statement filed on behalf of the workman, it was alleged that he joined in the year 1968 as a Peon in the Visakhapatnam Port Trust completed 11 years of continuous service by the date of his termination on 17-6-1976 (in the first reference it was mentioned that his services were terminated on 24-2-1978 by mistake, later on it was got amended by another reference the correct date as 17-6-1976 was mentioned). He was a permanent workman of Visakhapatnam Port Trust. While he was on duty on 2-2-1976, he applied for one day casual leave for 3-2-1976 due to his illness. He again applied for 60 days leave on medical ground from 3-2-1976. In 1972 he was attacked with T.B. and was treated in Port Hospital at Visakhapatnam in the year 1973 when he got again T.B. and he was then granted six months half pay leave by the Port Authorities.

Many calamities took place and he lost his brother and lost his wife in fire accident etc. During that period of leave on medical ground for sixty days, he undertook treatment from 3-2-1976 to 1-12-1976 at Eluru and again from December, 1976 to February 1978 at Narasaraopet, Guntur District and he was issued Fitness and Clearance Certificate. He reported for duty before the Visakhapatnam Port Trust authorities on 24-2-1978 but he was not allowed to join and he was informed that his services was terminated from 17-6-1976. He preferred an Appeal to the Chairman in September, 1978, it was rejected in November, 1978. He was under continuous treatment from 1979 to 1984 in Government Hospitals at Tadepalligudem as an out patient and due to his illness, he could not approach the authorities to redress his grievance and his termination dated 17-6-1976 is violative of principles of natural justice and against Section 25-F of the I. D. Act. Hence he is requesting for reinstatement with full back wages and continuity of service and other consequential benefits.

3. A counter was filed on behalf of the Management contending that the petitioner is a permanent employee of the Respondent-Management. He applied for one day's casual leave and subsequently asked for 60 days leave but he was issued a Memo stating that casual leave was sanctioned and he left the station without taking prior permission and extended leave and leave was not sanctioned. He was also directed to appear before the Medical Officer, Government Hospital, Anakapalli in February 1976. But the letter posted by the Management was returned unserved by the postal authorities stating that the Addressee was not residing at Anakapalli and the workman failed to comply Leave Rules and also failed to give any intimation his absence, was treated as unauthorised absence from duty without permission and a charge sheet was issued dated 17-5-1976. It was also returned unserved and all the postal covers were returned. Hence there was no other go for the Management except to invoke the special procedure contained in Regulation No. 15 of the Visakhapatnam Port Employees (C.C.A.) Regulations 1968 and that the Management took proper steps and removed the workman from service from 17-6-1976. Evidently the workman has abandoned the service without any intimation to the Management and he did not make any correspondent or representations. No correspondence with the Management nor violate any Leave Rules or Service Regulations applicable to the permanent employee and kept silent, on 2-9-1978 he submitted an explanation and the Appellate Authority rejected this appeal. The absence from 3-2-1976 has nothing to do with the pleadings. The Management got to knowledge with regard to the personal life of the workman. As per Port Trust Leave Rules, if an employee wants to take leave on medical grounds, he has to undergo Trade Test and the Management gave the workman fairest opportunity, issued letters and it is not enough for the Petitioner to just write letter to sanction his leave and requested that an Award may be passed in favour of the Management.

4. In this matter while on behalf of the Workman, he examined himself as W.W.1, on behalf of the Management as many as four witnesses were examined as M.W.1 to M.W.4, 12 documents were marked on behalf of the workman and 50 documents were marked on behalf of the management.

5. The matter is very simple because none of the facts are being controverted by either sides vehemently. Factually this evidence need not be gone through elaborated as there is no dispute about the facts and both parties virtually admitted. We are not concerned very much on past conduct of the workman at present and he applied for leave. It may be mentioned here that Exs. W1 to W7 are slips of certificates of postings, that these letters are addressed to F.A. & C.A.O., Visakhapatnam Port Trust by the workman from only one town Nidadavole, and they are of the years 1976 to 1977 only. This Tribunal is unable to understand why he did not communicate by Registered Post acknowledgement due, so that nobody can say that the letter sent by the workman was not received by the Management. Ex. W8 is the removal order dt. 17-6-1976 Ex. W9 is the document of the appeal. Ex. W10 is the Medical Fitness Certificate issued by the Medical Officer, Government Hospital, Tadepalligudem dt. 31-5-1984 and Ex. W11 is another certificate by the Govern-

ment Hospital, Nidadavole, dt. 10-2-1987. Ex. W12 also is another Medical Certificate of Nidadavole.

6. There are only few important documents. Evidently he applied for leave on 2-2-1976 and left for Anakapalli. Again he proposed to join duty on 2-12-1976 as per Ex. M7 and in this he asked for leave from 2-3-1976 to 2-12-1976 (Evidently supported by Medical Certificate Ex. M6 issued by Eluru Doctor). About this Ex. M8 the workman as W.W.1 has stated that the letter dated Nil was shown to him (Ex. M8) and it was received by the Management. With regard to Ex. M7 he stated that he wrote that letter. Evidently he was not present but sent letter and in this no address is given. Another important document is Ex. M8 and it was received by the Management dt. 17-12-1976 in which he gave his Eluru Address and no date was mentioned on it by the workman, but the Management endorsement indicates that it was received by them on 17-12-1976. In this he has categorically stated".

[Matter in regional language].

7. Thus it is evident that he lost his job and on that ground only he submitted that Telugu typed application. He also admitted as W.W.1 "the letter dated Nil shown to me was also written by me Ex. M8, the said letter which was received by the Management on 17-12-1976."

8. Thus from 17-12-1976 there is no other communication from him and again he wrote only on 24-2-1978. This also somewhat makes a curious reading. He wrote "In addition of my previous medical certificate given by Dr. C. Ranga Rao, Eluru from 2-3-1976 to 1-12-1976 (evidently Ex. M6) I beg to report to duty from 25-2-1978 as I was under treatment from 5-12-1976 to 22-2-1978 at Narasaraopet". Thus evidently again he wanted leave throughout 1977 and January 1978 i.e. 13 months. The supporting Medical Certificate is Ex. M10 and this time it is evident that he was personally present at Visakhapatnam Port Trust Office, the noting on Ex. M11 shows it. The other documents are his appeal, dismissal of the appeal, request for issuing Service Certificate which were issued etc.

9. Another important document is Ex. M19 issued by the Management on 13-2-1976. As a result of his request by way of an Inland letter dt. 3-2-1976 asking for 60 days leave (Ex. M2), this Ex. M19 S. No. 514 Memo was evidently sent to the workman but it was returned showing that he was not there and that the xerox copy is marked as Ex. M20. Thereupon a show cause notice was given on 17-5-1976 which was addressed to Anakapalli, Visakhapatnam and Rajahmundry and all the three were returned (Exs. M22 and M23). Then the removal order was passed (Ex. M24 i.e. Ex. W8). It was also returned unserved (Ex. M25, M26 and M27). On 13-9-1975 the Port Trust met and some minutes were exhibited wherein the increase in the number of private Medical Certificates were discussed and certain rules were laid down Ex. M32 to M36, M37 to M39 are the returned covers and the other certificates of postings. The other documents are copies already marked documents.

10. From the narration of the events, the following facts emerge and they cannot be disputed. The workman applied for one day leave on 2-2-1976 which was granted, and without permission he left for Anakapalli. From Anakapalli he applied for 60 days leave by way of a letter dated 3-2-1976 (Ex. M2). Evidently the Management did not grant it and it asked him to appear before the Medical Officer, Govt. Hospital Anakapalli by way of Ex. M19 dated 13-2-76 and its number is 514. It was not served and it was returned unserved with the endorsement "that he was not available in that area" (Ex. M2).

Then he sent a letter reporting for duty in December, 1976. The Management kept quite.

He came to know about his removal from service and made a representation (Ex. M8) received by the Management on 17-12-1976.

Then he appeared before the Port Personal on 24-2-1978, gave a joining report (Ex. M9) and in it he mentioned that he wanted leave again from 5-12-1976 to 22-2-1978, the Management refused to take him back as he was already removed from service. These are the facts.

11. In this background, it was ~~strongly~~ argued by the learned Advocate for the workman, that every termination is an act of the Management and when the termination is for misconduct of the workman, it is a punishment and punishment cannot be imposed without notice and opportunity being given to him and being heard, and thus the termination of this workman is bad in law. It was also contended that his leave was not sanctioned (Ex. M19) and he was asked to report to the Medical Officer, Government Hospital, Anakapalli, and issue of termination was already pre-determined and there cannot be any question of abandonment of service by the workman. If the registered letter sent by the Management to the address given by the workman was returned unserved, the Management must resort to some other mode by publishing the same in any of the newspapers and it admitted no such step was taken by the Management.

12. On the other hand it was contended on behalf of the Management that 60 days leave was not sanctioned and he was informed that he left without prior permission to leave the Headquarters and there is no use in keeping a person, who himself stated that he was suffering from illness Tuberculosis and mentally unsound and he abandoned his work and there is no choice left to the Management except to remove the name of the persons who on their own abandoned the service and abandonment of service is voluntary act on the part of the employee, and it is not the outcome of any action on the part of the Management. It is nothing but resignation by conduct and when an employee abandons the services, no notice of enquiry is necessary and it is not the Management which terminated the services. It was also contended that even on his own showing, he was moving about Anakapalli, N'dadavole, Rajahmundry, Narasaraopet etc and there is no intimation about his whereabouts and he did not report for duty for about 2-1/2 years from 3-2-76 to 24-2-1978.

13. Reliance was also placed by the learned Advocate for the Management on Makhan Singh v. Narainpura Co-Op. AGRI. Service Socy Ltd. (AIR 1987 S.C. page 1892) A judgement of the Supreme Court. Here it was held that termination of services without domestic enquiry is not bonafide and hence unjustified, and a perusal of the facts indicate that the employee was working as Secretary of a Co-operative Society. He did not attend to his duties between May 11th to May 29th, 1981 i.e. for about 18 days. On May 30th, the Society by a resolution terminated the services. The Management tried to support its action before the Lower Court by adducing evidence that he embezzled certain amount of the Society and admittedly there was no domestic enquiry. In those circumstances, it was held so :

14. On the other hand, the learned Advocate for the workman placed reliance on a number of decisions and those decisions which are very much relevant for our purpose only are being mentioned and considered here. It is evident that the workman was not removed from service for continued and prolonged ill-health and hence his case will not fall under exception laid down under Section 2(oo) of the I.D. Act. Ex. M-24 dismissal order clearly indicates that he has been absconding from duty unauthorisedly and without any prior permission that "an employee has been thus absconding from duty unauthorisedly and without prior permission or sanction of leave for the last four months" and hence invoking Regulation 15(ii) of the Visakhapatnam Port Trust Employees (C.C.A.) Regulations 1968, he was removed from service.

It was also argued that the workman is entitled to the relief of reinstatement purely on the basis of law and hence the removal from service tantamounts to termination and it was for the misconduct alleged that is absconding from duty, it is a punishment and it cannot be imposed without any notice or giving an opportunity for hearing. In that connection, he placed reliance on the following judgement : The Singareni Collieries Co. Ltd v. Dt. Raohuram [1983 (2) A.L.T. N.R.C. page 47]. Unfortunately the facts are not elaborately mentioned and they indicate that termination of service of an employee after completion of probation without giving any opportunity is not valid. It was held that the satisfaction of the authority as to the conduct of the Officer was the cause for the impugned order and the impugned order was in the

nature of punishment and without observing the principles of natural justice, it should not have been passed.

15. Nextly reliance was placed on Shridhar v. Nagar Palika, Jaunpur [1990 (60) F.L.R. page 386 (S.C.)]. This is the decision of the Supreme Court. Ofcourse this is an employees fight against Municipality, Jaunpur. A perusal of the facts indicate that the Municipal Board called for an interview for Tax Collectors. A senior most Tax Collector refused to appear for the interview on the ground that he was senior and he should be promoted without considering an outsider. But the Municipality appointed somebody. Then he filed a representation to the Prescribed Authority i.e. the Commissioner Varanasi and the Commissioner by his order set aside the order of the Municipal Board and cancelled the applicant's appointment on the ground that the senior most Tax Collector who contended that he should be promoted was correct. Thereupon the person who lost the job i.e. the person who was appointed by the Municipal by interview, filed a Writ and the Writ was dismissed. Thereupon the matter came up as appeal before the Supreme Court.

16. The Supreme Court held evidently the senior most Inspector did not appear before the Municipality and the Supreme Court also opined that the High Court committed manifest error in upholding the order of the Commissioner because he neither heard appellate Authority offered by the Government and it is an elementary principle of natural justice, that no person should be condemned without hearing. The order of appointment conferred a vested right in the appellant to hold the post of Tax Inspector, that right could not be taken away without affording opportunity of hearing to him. Any order passed in violation of principles of natural justice is rendered void. There is no dispute that the Commissioner's order had been passed without affording any opportunity of hearing to the appellant therefore the order was illegal and void.

Likewise he also placed strong reliance on Coramandal Fertilisers Ltd. v. Sakharatnam v. F. Betchy [1986 (1) APLJ N.R.C. page 98] It was observed herein as follows :

"The non-observance of fundamental fairness of procedure must be only an exception to be resorted to in cases of extreme exigencies; supported by valid, relevant and genuine circumstances acceptable to the Court. If any action is sought to be taken in disregard thereof, the management must plead *lache* on record and satisfy the Labour Court all the circumstances which constrained the management to invoke the extreme step of not adhering to be fair procedure contemplated under the relevant Standing Orders of the rules of fair play in action."

Ofcourse there the loss of confidence was pleaded but in our case there is no such situation.

17. With regard to the aspect whether this termination or to removal will tantamount to retrenchment. He placed strong reliance on H.M.T. Ltd. v. Labour Court [1983 (46) F.I.R. Page 398]. A judgment of the Kerala High Court. When the Standing Orders provide for termination of service for overstay of leave granted and when the case of the employees is that he was retrenched and his retrenchment is not in accordance with law, the contention of the workman must be upheld. Here the certified Standing Orders provided that if a worker is consequently absent for a period of 8 days without leave, there will be loss of leave. The single judgement of the Kerala High Court held that the termination of service by operation of the Certified Standing Orders would be termination and will come under the definition 'retrenchment under the I. D. Act.' Then referring to State Bank of India v. N. Sardara Money and Robert D'Souza of 1982 that whatever terminology you may attach, it is retrenchment it must be in accordance with law, the trend was upheld by the Supreme Court. In those circumstances, Kerala High Court also observed as follows :

"The question here is whether such termination will amount of retrenchment. The narrow or restricted meaning sought to be given to the 'termination' as calling for a positive voluntary act by the em-

ployer of passing an order putting an end to the service of the employee is not warranted. The term takes in all cases where there is the factum of termination."

Hence it was contended that even though in Ex. M24 the words used was "removal from service". It is a termination and without following the proper procedure ones services are terminated, it will become illegal.

Nextly he placed reliance in B. P. Nigrabi v. U.A. Co-Op. Pharmacy Ltd. [1984(49) F.L.R. page 326]. A judgement of Orissa High Court. Here this is a case of a Cooperative Pharmacy Employee. He applied in December 1975 itself for three days in January 1976 and it was refused. Then he made a fresh prayer and he did not receive any reply and he left the station intimating the management telegraphically. When he was at another place he took ill and extended his leave upto February ending but the Management asked him to join immediately within three days. The workman replied that on ground of his illness supported by medical certificate, his leave may be extended but in March the Management transferred him to other place and asked him to handover the charge. The workman again applied for leave and he was directed to handover the charge. he handed over the charge in March, then in April, 1976 the Administration passed an order considering his absence from January 1976 to April 1976 as one of unauthorised absence from duty on loss of pay and with effect from April 1976 he was treated to have voluntary abandoned service and his name was removed from the register. The Orissa High Court considered the definition of Section 2(oo) of the I.D. Act and held that it will not come under any of those exceptions, upheld the contention of the workman in question.

18. Lastly reliance was placed in M/s. Sri Ram Refrigeration v K. Anil Reddi [1987(II) APLI. page 302]. It was held herein that in the case of every retrenchment, he must be entitled, for all backwages etc. This it is evident that the latest legal position as categorically brought out in 1987(2) A.P.L.J. page 302 is in favour of the workman.

19. Reliance was also placed in Bata Shoe Co. (P) Ltd. v D. N. Ganguly [(1961) S.C. page 1158 para 30] A perusal of the facts indicate that there is no Standing Orders of the Employer Company mentioned that the workman charge sheeted would be served with a copy and if he refused to accept the charge sheet, it would be deemed to have charge made. Here the charge sheets were sent to 11 workman by registered post and they were returned unserved. The same notices were published in certain newspapers informing the workmen, without mentioning their names, that charge sheets were sent individually to the workers etc. and they should attend with their explanations and they affixed the charge sheets on the notice board, while there was no provision in Standing Orders for affixing the charge sheets on the notice board. In those circumstances, it was held, "the proper course was when the registered notice came back and served in the case of those workmen to publish notices in their names in some newspaper in the regional language in the wide circulation along with the charges framed against them. It would have been a different matter if the Standing Orders had provided for service of charge sheets through their display on the notice boards of the appellants. In the absence of such provision, the proper course to take was what we have mentioned above. If that course had been taken, the appellant would have been justified in saying that it did all that it could to serve the workmen, but as that was not done, we agree with the Tribunal that these eleven workmen had no notice of the charges against them and the date by which they had to submit their explanation as well as the date of inquiry. In these circumstances the order of the Tribunal with respect to these eleven workmen must also be upheld."

20. Now we will consider the V.P.T.E. (C.C.A) Regulation 15(ii) which was invoked in Ex. M24. The rule reads as follows :

"Whether the Disciplinary Authority is satisfied for reasons to be recorded by it in writing for it is not reasonably practical to hold an enquiry in the manner provided in the Regulations or....."

Of course Ex. M24 repeated how all the letters that were issued to the known address of the employee was returned unserved and observed.

"Now that the above named employee has been thus absconding from duty unauthorisedly without any prior permission or sanction of leave for the last four months."

Therefore exercising the power under Regulation 15(ii) the penalty of removal from service was passed.

21. To be too technical, it can be safely stated that the Disciplinary Authority never recorded the reasons for satisfying itself in writing that it is not practical to hold an enquiry. Because the wording Regulating 15(ii) is not to be found in Ex. M24. Even otherwise, in view of the Supreme Court decision of 1961 it should have been proper course for the management to publish in newspaper as a last resort, it was not done so.

22. Now this Tribunal likes to summarise its conclusions. It is a fact that the workman in question went on changing the addresses and never informed the change of address to the Management. The Management tried its level best to serve but all these covers were returned but it did not resort to newspaper publication. The proper course would be newspaper publication, whether provided or not provided in the certified Standing Order, so that all principles of natural justice might have been followed secondly whatever the terminology may be used 'removal', 'retrenchment', 'termination', 'discontinued', the result will be the same. The latest trend is it tantamounts to retrenchment and if the procedure of holding an enquiry is not followed, the retrenchment will become invalid and illegal.

In our case, memorandum of charges was sought to be served and they failed to serve on him as all the covers addressed to the last known address were returned. Then without holding any enquiry the impugned order Ex. M24 was passed. Hence in view of all these things and in view of the latest position of law, it must be held that the impugned order is not legal and valid in the eye of law.

23: Then a contention was raised by the learned Advocate for the workman that he must be reinstated with full back wages as he must be deemed to be in service continuously, and also entitled for interest etc. and it is a question of law and it can be raised during the course of arguments even.

As a legal proposition these things cannot be challenged but the conduct of the workman must give some scope to use. The discretion in his favour by the Tribunal, from 3-2-1976 for full two years i.e. upto 24-2-1978 he was not to be seen. He did not even care to inform his address though he was writing letters from various places. Not even a single acknowledgement was filed by him except certificates of posting. In these circumstances, after a lapse of 14 years, to grant him full back wages will not be doing justice but only allowing the workman to enrich himself unjustly. This Tribunal is not prepared to do it.

24. In view of all these things, an Award is hereby passed ordering immediate reinstatement of the petitioner into service without back wages but with continuity of service from 24-2-1978 and the period of his absence from 3-2-1976 to 24-2-1978 should be treated as leave and he is not entitled for any wages during that period and that period should not be considered for continuity of service.

Award passed accordingly.

## Appendix of Evidence

## Witnesses Examined for the workmen:

W.W1 K. Venkata Rao

## Witnesses Examined for the Management:

M.W1 P. S. N. Murthy

M.W2 M. G. K. Vittal

M.W3 M. Venkateshwara Rao

M.W4 V.S.K. Subramanyam

## Documents marked for the workman

Ex. W1—Certificate of posting cover dt. 3-4-76 addressed to Financial Adviser and Chief Accounts Officer, Visakhapatnam Port Trust, Visakhapatnam-I.

Ex. W2—Certificate of posting cover dt. 2-7-76 addressed to FA and CAO Office, Port Trust, Visakhapatnam.

Ex. W3—Certificate of posting dt. 5-10-76 addressed to FA and CAO Office Port Trust, Visakhapatnam.

Ex. W4—Certificate of posting dt. 2-1-77 addressed to FA and CAO Office, Port Trust, Visakhapatnam.

Ex. W5—Certificate of posting dt. 4-4-77 addressed to Financial Adviser and Chief Accounts Office, Visakhapatnam Port Trust, Visakhapatnam-I.

Ex. W6—Certificate of posting dt. 1-7-77 addressed to FA and CAO Office Port Trust Visakhapatnam-I.

Ex. W7—Certificate of posting dt. 3-10-77 addressed to FA and CAO Office Port Trust, Visakhapatnam-I.

Ex. W10—Medical Certificate dt. 31-5-84 issued to K. Venkata Rao by the disciplinary authority, Visakhapatnam Port Trust, Visakhapatnam.

Ex. W9—Proceedings of the Appellate Authority under Port Employees regulations 1968 dt. 6-11-78.

Ex. W10—Medical Certificate dt. 31-5-84 issued to K. Venkata Rao by the Medical Officer, Government Hospital, Tadepalligudem.

Ex. W11—Medical Certificate dt. 10-2-87 issued to K. Venkata Rao by the Medical Officer, Government Hospital Nidadavole.

Ex. W12—Fitness Certificate 1-2-87 issued to K. Venkata Rao by the Medical Officer, Government Hospital, Nidadavole.

## Documents marked for the Management

Ex. M1—Casual Leave application dt. 2-2-76 of K. Venkata Rao.

Ex. M2—Letter dt. 3-2-76 of K. Venkata Rao requesting extension of leave for 60 days from 3-2-76

Ex. M3—Letter dt. 18-2-76 of K. Venkata Rao addressed to FA and CAO Port Trust, Visakhapatnam.

Ex. M4—Letter dt. Nil of K. Venkata Rao addressed to FA and CAO Office Port Trust, Vizag

Ex. M5—Letter dt. 3-12-76 of K. Venkata Rao addressed to FA and CAO Office, Port Trust, Visakhapatnam.

Ex. M6—Certificate of Sickness dt. 1-12-76 issued to K. Venkata Rao by C. Ranea Rao, Regd. Medical Practitioner, Regd. No. 7324 (Madras) and 548 (Ardhra).

Ex. M7—Leave application NIL of K. Venkata Rao requesting to grant leave for the period from 2-3-76 to 2-12-76.

Ex. M8—Representation dt. Nil of K. Venkata Rao received by the Management on 17-12-76.

Ex. M9—Letter dt. 24-2-78 addressed to FA and CAO Port Trust, Visakhapatnam by K. Venkata Rao with regard to report to duty from 25-2-78.

Ex. M10—Medical Certificate dt. 22-2-78 issued by Dr. M. Radhakrishna Murthy, Regd. No. 8952 M.B.B.S. Nirmala Nursing Home, Narasaraopet-522601 to K. Venkata Rao.

Ex. M11—Acknowledgement given by K. Venkata Rao duly received the Disciplinary Proceedings bearing No. FA/Admn./PC/KVR/886, dt. 17-6-86 when he came to Office on 24-2-78.

Ex. M12—Appeal dt. 2-9-78 made by K. Venkata Rao to the Chairman, Visakhapatnam Port Trust, Visakhapatnam.

Ex. M13—Proceedings dt. 6-11-78 of the Appellate authority under Visakhapatnam Port Employees (Classification, Control and Appeal) Regulations, 1967 and acknowledgement of the same given by K. Venkata Rao

Ex. M14—Application dt. 2-1-81 of K. Venkata Rao requesting to issue him a Service Certificate the last charge sheet and final proceedings

Ex. M15—Application dt. 20-2-81 of K. Venkata Rao requesting to issue him a Service Certificate the last Charge Sheet and final proceedings.

Ex. M16—Application dt. 25-2-81 of K. Venkata Rao requesting to issue him a Service Certificate the last Charge Sheet and final proceedings

Ex. M17—Service Certificate issued to K. Venkata Rao under cover of letter No. FA/Admn./PC/KVR/596, dt. 14-3-81 by the Management.

Ex. M18—Service Certificate dt. 13-3-81 issued to K. Venkata Rao by the Management.

Ex. M19—Letter dt. 13-2-76 of FAD CAD with regard to leave application dt. 3-2-76 of K. Venkata Rao and asking him to appear before the Medical Officer, Govt. Hospital, Anakapalli

Ex. M20—Photostat copy of Ex. M19 letter which was returned by the Postal authorities with their remarks recorded thereon.

Ex. M21—Memorandum of Charge Sheet dt. 17-5-1976 of F.A. and CAO Visakhapatnam Port Trust, Visakhapatnam issued to K. Venkata Rao.

Ex. M22—Photostat copy of registered letter addressed to available address given by K. Venkata Rao which was returned by the postal authorities with their remarks recorded thereon

Ex. M23—Photostat copy of registered letter addressed to available address given by K. Venkata Rao which was returned by the postal authorities with their remarks recorded thereon.

Ex. M24—Disciplinary Proceedings issued to K. Venkata Rao under letter No. FA/Admn./PC/KVR/886 dt. 17-6-76.

Ex. M25—Photostat copy of registered letter addressed to available address given by K. Venkata Rao which was returned by the postal authorities with their remarks recorded thereon.

Ex. M26—Photostat copy of registered letter addressed to available address given by K. Venkata Rao which was returned by the postal authorities with their remarks recorded thereon.

Ex. M27—Photostat copy of registered letter addressed to available address given by K. Venkata Rao which was returned by the postal authorities with their remarks recorded thereon.

Ex. M28—Minutes of the Chairman's Monthly Meeting No. 6 of 1975-76 for the month of September, 1975 with the Heads of Departments held on 30-9-75 at 3.30 p.m.

Ex. M29—Copy of the Circular dt. 31-10-86 of the Secretary Visakhapatnam Port Trust with regard to grant of leave on private Medical certificates

Ex. M30—Leave account of K. Venkata Rao.

Ex. M31—Returned Cover.

Fx. M32—Returned Cover.

Ex. M33—Returned Cover.

Ex. M34—Returned Cover.

Fx. M35—Returned Cover.

Ex. M36—Returned Cover.

Fx. M37—Acknowledgement.

Ex. M38—Acknowledgement.

Ex. M39—Acknowledgement.

Ex. M40—Memorandum of Charge Sheet dt. 17-5-76 (Ex. M21).

Fx. M41—Memorandum of Charge Sheet dt. 17-5-76 (Ex. M21).

Fx. M42—Memorandum of Charge Sheet dt. 17-5-76 (Ex. M21).

Fx. M43—Disciplinary Proceedings issued to K. Venkata Rao under letter No. FA/Admn./PC/KVR/886, dt. 17-6-76 (Ex. M24).

Ex. M44—Disciplinary Proceedings issued to K. Venkata Rao under letter No. FA/Admn./PC/KVR/886, dt. 17-6-76 (Ex. M24).

Ex. M45—Disciplinary Proceedings issued to K. Venkata Rao under letter No. FA/Admn./PC KVR/886, dt. 17-6-76 (Ex. M24).

Ex. M46—Memo. dt. 18-8-69 issued to K. Venkata Rao by the Enquiry Officer.

Ex. M47—Memo. dt. 16-4-68 issued to K. Venkata Rao by F.A. & C.A.O.

Ex. M48—Office Note dt. 3-3-71 on the leave application of K. Venkata Rao.

Ex. M49—Office note with regard to leave period of K. Venkata Rao.

Ex. M50—Record of current service particulars pertaining to K. Venkata Rao.

Sd/- Illegible Industrial Tribunal

नक्त दिल्ली, 1 जनवरी, 1991

का. आ. 208 —श्रीशोगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केंद्रीय सरकार संसद वेयरहाउसिंग कारपोरेशन, पटना के प्रबन्धनस्थ के सबूद सियोजकों और उनके कर्मकारों के बीच, प्रत्यावर्त में निश्चिप्त श्रीशोगिक विवाद में श्रीशोगिक अधिकरण द्वारा, भुवनेश्वर के पचाट थो प्रकाशित करनी है, जो केंद्रीय सरकार की 31-12-90 वाले प्राप्त हुआ था।

New Delhi, the 4th January, 1991

S.O. 208.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal, Orissa, Bhubaneswar as shown in the Annexure, in the industrial

dispute between the employers in relation to the management of Central Warehousing Corporation, Patna and their workmen, which was received by the Central Government on 31-12-90.

#### ANNEXURE

INDUSTRIAL TRIBUNAL, ORISSA, BHUBANESHWAR  
PRESENT:

Shri S. K. Misra, I.I.B., Presiding Officer, Industrial Tribunal, Orissa, Bhubaneswar.

Industrial Dispute, Case No. 32 of 1990 (Central)

Dated, Bhubaneswar, the 14th December, 1990

#### BETWEEN

The Management of Central Warehousing Corporation, Patna...First Party-Management.

#### AND

Their workman Sri Digambar Rai, represented through the Warehousing Corporation Employees Union, Nayabazar, Cuttack...Second Party-workman.

#### APPEARANCES:

Smt. Rebecca John, Warehouse Manager, Central Ware House, Bhubaneswar—For the First Party-Management.

Sri Digambar Rai—The workman himself.

#### AWARD

The Government of India in the Ministry of Labour, in exercise of power conferred upon them by sub-section (1) and sub-section (2A) of Section 10 of the Industrial Dispute Act, 1947 and by their order No. 42012/11/89 dated 27-7-90 have referred the following dispute for adjudication by this Tribunal:—

“Whether the action of the Management of Central Warehousing Corporation, Regional Office, Mayurolok Complex, Dakhungal Road, Patna in terminating the services of Shri Digambar Rai, Chowkidar w.e.f. 30-9-88 is justified? If not, to what relief is the workman entitled?”

2. This case was posted to today for recording settlement. The memorandum of settlement drawn up in form-H and the joint petition seeking disposal of the reference on settlement are put-up. The second party-workman and the representative of the First Party-Management submitted that they have settled the dispute out of court in the interest of industrial peace and harmony and prayed to pass an Award in terms of the settlement. Both the parties admitted the terms of the settlement before me. The settlement seems to be fair. Hence, I pass this Award in terms of the settlement. The Memorandum of Settlement do form part of the Award.

Dictated and corrected by me.

S. K. MISRA, Presiding Officer  
[No. L-42012/11/89-IR(Misc.)]

#### FORM 'H'

(See Rule-58)

#### FORM I—FOR MEMORANDUM OF SETTLEMENT

Industrial dispute case No. 32/90(c) arising out of Ref No L-42012/11/89-IR(Misc.) dt. 27-7-90.

#### NAMES OF PARTIES:

Representing Employer(s)—Rebecca John, Warehouse Manager, Central Warehouse (Public Board) Bhubaneswar-751010.

## Representing Workman—Digambar Rai.

Short recital of the case—The Central Government has referred the following dispute to the tribunal for adjudication, "Whether the action of the management of CWC, RO, Patna in terminating the service of Shri Digambar Rai, Chowkidar w.e.f. 30-9-88 is justified. If not, to what relief is the workman entitled?

## TERMS OF SETTLEMENT

The workman has been offered with appointment order as regular chowkidar at Central Warehouse, Jeypore by the management vide their order dt. 15/17-9-90. The workman is not entitled for back wages.

That both the parties have settled out of the court without any coercion or duress in the interest of industrial peace and harmony. That at present there is no dispute exist between the two parties.

The both parties agree that in view of the above understanding, the present dispute for adjudication has been rendered infructuous and as such, the parties has no other or further purpose or interest to continue the instant case.

In view of the above composition of the dispute the parties fervently pray that the aforesaid terms of settlement be accepted and an award in terms thereof may kindly be passed by the Honourable Tribunal.

## Witnesses :

(1) T. Maharanu,

Warehouse Assistant

(2) Sanjay Kumar Samantaray,

Advocate,

Orissa High Court, Cuttack.

## Signature of parties

Sd/-

(1) Rebecca John,

Warehouse Manager,

Central Warehouse (Public Bounded)

Bhubaneswar-751010

Sd/-

(2) Digambar Rai,

Workman

नई दिल्ली 7 जनवरी 1991

का आ 209 —श्रीयोगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय मरकार जीलिंग लंगलोट आयगम और माहान स्टॉक मैमर्स एम्स लाल एच के प्रति —बारबिल, जिला किशोरगढ़ और मैमर्स एम्स, लाल एच क. वि पी. आ, बारबिल, जिला किशोरगढ़ के प्रबन्धनात्मक संबंध नियोजकों और उनके कर्मकानों के बीच, अनुबंध में निर्दिष्ट श्रीयोगिक विवाद में श्रीयोगिक अधिकरण, उदीसा, भुवनेश्वर के पचाट को प्रकाशित करती है, जो केन्द्रीय मरकार को 31-12-90 को प्राप्त हुआ था।

New Delhi, the 7th January, 1991

S.O. 209—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal, Orissa, Bhubaneswar as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Jilling Langalota Iron Ore Mines of M/s. S. Lal & Co. Ltd., P.O. Barbil, Distt. Keonjhar and M/s. S. Lal & Co. Ltd., P.O. Barbil, Distt. Keonjhar and their workmen, which was received by the Central Government on 31-12-90.

## ANNEXURE

## INDUSTRIAL TRIBUNAL, ORISSA, BHUBANESWAR

## PRESENT

Shri S. K. Mitra, I.L.B  
Presiding Officer,  
Industrial Tribunal,  
Orissa, Bhubaneswar.

Industrial Dispute Case No. 7 of 1984 (Central)

Industrial Dispute Misc. Case No. 3 of 1983 (C)

Dated, Bhubaneswar the 15th December, 1990

I.D. Case No. 7/84

## BETWEEN

Management of Jilling Langalota Iron Ore Mines of  
M/s. S. Lal & Co. P.O. Barbil Distt. Keonjhar,  
...First Party—Management.

## AND

Then workman Sri Sudam Singh, represented through  
the North Orissa Workers Union, Rourkela,  
...Second Party—Workman.

I.D. Misc. Case No. 3/83

M/s. S. Lal & Co. Limited, P. O. Barbil, Distt.  
Keonjhar, ...Applicant—Management.

Vrs.

Sri Sudam Singh, Jilling Langalota Iron Mines, P.O.  
Jajang, Via : Joda, Distt. Keonjhar,  
...Opposite Party—Workman.

## APPEARANCES :

(1) Sri S. K. Jain, Vice-President.

(2) Sri J. K. Tripathy, Advocate.

...For the First Party—Management.

Sri B. S. Pati, General Secretary of the Union,

...For the Second Party—Workman

## AWARD

This reference was received from the Government of India in the Ministry of Labour for adjudication of the following dispute :—

"Whether the action of the management of Jilling Langalota Mines of Messrs. S. Lal & Co. Ltd., Post Office Barbil, Distt. Keonjhar in dismissing from service Shri Sudam Singh, Operator/Driver with effect from 7-7-83 is justified? If not, to what relief is the workman concerned entitled?"

2. The First Party—Management also filed an application u/s. 33(2)(b) of the I.D. Act for approval of its action in dismissing the workman Sudam Singh from service. Both the proceedings were heard together.

3. On the pleadings of the parties, the following four issues were framed :—

(1) Whether the reference is maintainable?

(2) Whether the domestic enquiry held against the second party—workman is fair and proper?

(3) Whether the action of the First Party Management in dismissing the second party—workman from service with effect from 7-7-1983 is justified?

(4) If not, to what relief the second party—workman is entitled?

4. Issue No. 2 related to the question of fairness of the domestic enquiry. By an order passed on 4-2-87 my predecessor held that the domestic enquiry conducted in the case

was fair and proper. He then called upon the parties to come up for hearing on the other three issues, saying that those would cover the question as to whether the finding recorded in the case suffers from any perversity.

5. On 7-12-87 an order was passed in this proceeding calling upon the workman to substantiate his pleas that the findings recorded in the domestic enquiry against him were perverse and the punishment awarded against him was disproportionate to the charge of misconduct drawn up against him. After this order no further evidence was adduced by either party and the matter was argued on the existing materials.

On behalf of the second party—workman it was urged that the evidence before the Enquiry Officer did not support the findings recorded by him about the misconduct against the workman and as such, the same were perverse.

6. The second party—workman was charged with committing the following misconduct :—

That on 9-7-82 at about 7.15 A.M. he misbehaved with Sri M. Sibaji Rao, a mechanical foreman of the drilling section at the rest shelter of Longalota section, using filthy and vulgar language, in presence of other employees, threatened him with dire consequence, slapped him on his back and tried to suffocate him by holding his shirt collar.

The second party—workman submitted his explanation stating that on 8-7-82 Sri M. Sibaji Rao, the Foreman had asked him to repair a machine. On 9-7-82 in the morning, at the rest shelter, he asked Sri Rao to show him the spot where the machinery maintenance was proposed to be done. At this time, they had been only talking loudly but he never used any vulgar language nor threatened Sri Rao nor caught hold of his shirt collar. The Management was, however, not satisfied with his explanation and directed an enquiry into the charges drawn up against him. One Mr. M. K. De was appointed as the Enquiry Officer who conducted the enquiry. It appears that during the enquiry proceeding, on behalf of the Management, Sri Sibaji Rao, Sri Ekbal Hussain, Sri Chitta Ranjan Lohar, Sri Laxman Munda and Sri Manmohan Swain were examined and on behalf of the second party, Sri Sudam Singh, the workman himself was examined.

Sri Sibaji Rao, the victim of the occurrence which allegedly took place on the relevant day i.e. on 9-7-82, stated that on that day, around 7 A.M., when he saw the second party—workman he told him that he should keep the Electric Hotman Compressor running upto 2.30 P.M. regularly and should not stop the same at 2 P.M. At this, the workman Sri Singh asked him whether this was the instruction of the Dy. Superintendent or was his own. Sri Rao replied that this instruction was being given with the knowledge of the Dy. Superintendent. According to Sri Rao, hearing the above reply, the workman Sri Singh threw the key of the compressor and abused him in filthy language. He also caught hold of the collar of his shirt, choked his throat and slapped him on his back. The other employees who were present there separated Sri Singh from him. He was cross-examined by the workman and he repeated the occurrence as had been told by him in his examination-in-chief.

Ekbal Hussain stated that on the relevant day while Sibaji Rao and the workman Sudam Singh were discussing about running of the Hotman machine they quarreled and each abused the other in filthy language. Sri Chitta Ranjan Lohar stated that on the relevant day Sri Sibaji Rao gave the key of the Hotman machine to the workman Sri Sudam Singh and Sudam Singh refused to take the key. Sri Rao then told the workman Sri Singh to see the Manager. After this, the workman Sudam Singh became violent and Sibaji Rao became agitated. At that place other employees intervened and separated them. Sri Laxman Munda stated that he found Sudam Singh and Sibaji Rao engaged in some altercations at the date and time of occurrence. He also stated that as the workman Sudam Singh used filthy language Sibaji Rao became angry. Sri Manmohan Swain stated about the altercations between the workman Sri Singh and the foreman Sri Rao and further stated that the workman Sri Singh used filthy language and caught hold of the shirt collar of Sri Rao.

According to him, he and others intervened and stopped the workman Sri Singh from using force.

The workman Sri Sudam Singh stated about the discussions he had on that day with the Foreman Sri Sibaji Rao and denied to have uttered any filthy language or to have caught hold of the shirt collar or to have slapped him on his back on that day. In course of his cross-examination he admitted that he did not accept the key from Sri Rao but denied to have misbehaved with Sri Rao. He admitted that there was heated argument between him and the Foreman Sri Rao on that day.

On the basis of the aforesaid evidence, the Enquiry Officer held that consequent upon some altercations between the workman Sri Singh and the Foreman Sri Rao regarding running of the Hotman Machine the workman Sri Sudam Singh abused the Foreman Sri Rao in filthy language and caught hold of his shirt collar. He also found that there was no evidence to the effect that the workman Sri Singh threatened Sri Rao with dire consequences. The Enquiry Officer thus found the workman Sri Singh guilty of using filthy language against Sri Rao and of catching hold of his shirt collar. Pursuant to the enquiry report, the Management dismissed the second party—workman from service.

7. After having heard both the parties in this proceeding before me and after perusing the evidence recorded in the enquiry proceeding and the enquiry report, I find no material to hold that the Enquiry Officer committed any perversity in finding the workman guilty of the charges of abusing the Foreman and also of catching hold of his shirt collar. His findings to the above effect are based on evidence recorded by him.

In the circumstance, I would hold that the findings of the Enquiry Officer are not perverse.

8. Next coming to the question of punishment, it is strenuously urged on behalf of the workman that the extreme punishment of dismissal awarded against him is disproportionate to the misconduct proved against him. On behalf of the Management, it is, however, urged that the misconduct proved against the workman relates to discipline in the industry and as such, it should be seriously viewed. It is further urged that leniency in such matters has to be avoided at all cost.

9. The evidence recorded by the Enquiry Officer reveal that there was some sort of exaggeration made so far as the occurrence was concerned. For example, it was alleged that the workman slapped the Foreman on his back but none of the witnesses examined in the enquiry proceeding supported the said version. Some of the witnesses stated that there was quarrel between the second party—workman and the concerned Foreman and both abused each other. Industrial workmen, as we know, have a different culture and we may not expect from them that kind of decent and fine behaviour of a high standard which we find in an educated and cultured society. However, such vulgar behaviour are not to be dismissed lightly. In this particular case, as is revealed from the materials on record, there were some altercations between the workman and the Foreman in connection with running of a machine, in course of which, there was high pitch arguments and the workman exceeded his limit. There is, however, no material to indicate that in the past the workman also behaved in similar manner with his other superior authorities. Considering the facts and circumstances of this case I think, the extreme punishment of dismissal from service was too severe and disproportionate to the misconduct proved against the workman. The workman needs correction, for which, he also needs opportunity.

In the circumstance, I would declare the punishment of dismissal inflicted on the workman to be disproportionate and uncalled for and direct that he should be reinstated in service with 25 per cent back wages. Reduction of payment of back wages to him by 75 per cent would certainly serve as an eye opener to him as also, to other employees of the company and would deter them in future from committing such misconduct.

10. In conclusion therefore I would hold that the action of the First Party—Management in dismissing the second

party—workman from service with effect from 7-7-83 is unjustified, I would further hold that he is entitled to reinstatement with 25 per cent back wages for the aforesaid reasons within one month from the date of publication of this Award.

The Misc. case filed u/s 33(2)(b) of the Industrial Disputes Act is accordingly disposed of.

Dictated and corrected by me.

Dated : 15-12-1990.

S. K. MISRA, Presiding Officer  
[No. Dy. 2989/90-IR(Misc.)]

का. न्या. 210.—श्रीयोगिक विवाद अधिनियम, 1947 (1947 का 14) का धारा 17 के अनुग्रहम् दे, भौत्तिक मरकार पम. जो बा. के. मगनज माहस आफ मेसरों उड़ीसा भाइयिंग कार्पोरेशन लि, पो. आ. गुद्दा, बादा जोडा, जिला किंजीलहर के प्रावधानतंत्र के संबंध नियोजकों और उनके कर्मकारों के बोध, अनुबन्ध दें लिविंस्ट श्रीयोगिक विवाद में श्रीयोगिक अधिकरण, उड़ीसा, भुवनेश्वर के पक्षपट को प्रकाशित करता है, जो भौत्तिक मरकार को 2-1-1991 को प्राप्त हुआ था।

S.O. 210.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal, Orissa, Bhubaneswar as shown in the Annexure, in the industrial dispute between the employers in relation to the management of SGBK Manganese Mines of M/s. Orissa Mining Corp. Ltd., At P.O. Guruda, Via : Joda, Distt. Keonjhar and their workmen, which was received on 2nd January, 1991 by the Central Government.

#### ANNEXURE

#### INDUSTRIAL TRIBUNAL : ORISSA : BHUBANESWAR

#### PRESENT :

Shri S. K. Misra, LL.B., Presiding Officer, Industrial Tribunal, Orissa, Bhubaneswar.

Industrial Dispute Case Nos. 9, 10, 11, 21, 22 & 24 of 1987 (Central).

Bhubaneswar, the 19th December, 1990.

#### BETWEEN :

The Management of SGBK Manganese Mines of M/s. Orissa Mining Corporation Ltd., At P.O. Guruda, Via : Joda, Distt. Keonjhar. (In all the six cases)—First Party—Management.

#### AND

Their workmen named below :—

1. Sri Sukchand Barik—In I.D. Case No. 9 of 1987(C).
2. Sri Mangal Majhi—In I.D. Case No. 10 of 1987(C).
3. Sri N. B. Kuanr—In I.D. Case No. 11 of 1987(C).
4. Sri Kushnu Munda—In I.D. Case No. 21 of 1987(C).
5. Sri Md. Saleem—In I.D. Case No. 22 of 1987(C).
6. Sri Khetrabasi Mohakud—In I.D. Case No. 24 of 1987(C).

#### APPEARANCES :

Sri P. S. Kanungo, Sr. Labour Welfare Officer—For the First Party—Management.

Sri B. Khillar, General Secretary of the Orissa Mining Workers Union—For the second Party workman.

#### AWARD

The Government of India in the Ministry of Labour, in exercise of powers conferred upon them by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) have referred the following disputes for adjudication by this Tribunal :—

1. I.D. Case No. 9 of 1987(C)—Reference No. L-27012/10/85-D. III(B) dated 12-2-87.

Whether the action of the management of SGBK Manganese Mines of M/s. Orissa Mining Corpo-

ration Limited, At P.O. Guruda, Via : Joda, Distt. Keonjhar in terminating the services of Shri Sukchand Barik, Male Mazdoor is justified ? If not, to what relief is the workman entitled ?

2. I.D. Case No. 10 of 1987(C)—Reference No. L-27012/12/85-D. III(B) dated 12-2-87.

“Whether the action of the management of SGBK Manganese Mines of M/s. Orissa Mining Corporation Limited, At P.O. Guruda, Via : Joda, Distt. Keonjhar in terminating the services of Shri Mangal Majhi, Carpenter, is justified ? If not, to what relief is the worker entitled ?”

3. I.D. Case No. 11 of 1987(C)—Reference No. L-27012/11/85-D. III(B) dated 12-2-87.

“Whether the action of the management of SGBK Manganese Mines of M/s. Orissa Mining Corporation Limited, At P.O. Guruda, Via : Joda, Distt. Keonjhar in terminating the services of Shri N. B. Kuanr, Supervisor is justified ? If not, to what relief is the workman entitled ?”

4. I.D. Case No. 21 of 1987(C)—Reference No. L-27012/9/85-D. III(B) dated 26-2-87.

“Whether the action of the management of SGBK Manganese Mines of M/s. Orissa Mining Corporation Limited, At P.O. Guruda, Via : Joda, Distt. Keonjhar in terminating the services of Shri Kushnu Munda, Male Mazdoor with effect from 19-6-84 is justified ? If not, to what relief is the workman entitled ?”

5. I.D. Case No. 22 of 1987(C)—Reference No. L-27012/8/85-D. III(B) dated 26-2-87.

“Whether the action of the management of SGBK Manganese Mines of M/s. Orissa Mining Corporation Limited, At P.O. Guruda, Via : Joda, Distt. Keonjhar in terminating the services of Shri Md. Saleem, Accountant is justified ? If not, to what relief is the workman entitled ?”

6. I.D. Case No. 24 of 1987(C)—Reference No. L-27012/7/85-D. III(B) dated 26-2-87.

“Whether the action of the management of SGBK Manganese Mines of M/s. Orissa Mining Corporation Limited, At P.O. Guruda, Via : Joda, Distt. Keonjhar in terminating the services of Shri Khetrabasi Mahakud, Gangman, is justified ? If not, to what relief is the workman entitled ?”

The petition filed by both parties for hearing the above cases analogously was allowed by an order passed on 26-5-90 in I.D. Case No. 9 of 1987(C). Pursuant to the said order, these six cases were clubbed together.

2. S.G.B.K. Manganese Mines was being operated by M/s. Serajuddin & Co. under a lease granted by the Govt. of Orissa. The lease of the said company expired and was not renewed. The State Government of Orissa took over possession of the said mines on 28-5-82 and thereafter, made over the same to M/s. Orissa Mining Corporation Ltd. (for short O.M.C.) for operating the same as an agent of the State Government. One of the reasons for taking such step was to provide employment to the employees of the ex-lessee, who had been working in the Mines. The above fact is reflected in the letter dated 5-6-82 sent by the Deputy Secretary to Govt. of Orissa, Mining and Geology Department to the Director of Mines, Orissa (Ext. A). The O.M.C. took over the Mines in question as per the above arrangement. On 17-6-82, the Mines Manager issued appointment letter to the concerned workmen—Sukchand Barik, Mangal Majhi, N. B. Kuanr, Kushnu Munda, Md. Saleem and Khetrabasi Mohakud appointing them in the Mines for a period of 60 days on purely casual basis. Sukchand Barik was appointed as a Male Mazdoor, Mangal Majhi was appointed as a Carpenter, N. B. Kuanr was appointed as a Supervisor. Kushnu Munda was appointed as a Male Mazdoor. Md. Saleem was appointed as an Accountant and Khetrabasi

Mohakud was appointed as a Gangman. The appointment of the above named six workmen was extended from time to time without any interruption till 19-6-84, when they were disengaged on the ground that their services were no longer required by the Corporation (Ext. K) as they were found medically unfit/had attained the age of superannuation. The workmen whose cases are dealt with in the present Award are mentioned at serial Nos. 5, 6, 1, 9, 2 and 13 of Ext. K.

3. The second party-workmen challenged the termination orders notified in Ext. K. on the ground that the same were given effect to without compliance of the requirements of Section 25-N of the Industrial Disputes Act, which was applicable to the First Party's establishment and further that at the time of disengagement, the concerned workmen were fit and able to perform their duties. They demanded reinstatement with full back wages.

4. The First Party-Management filed written statement stating the circumstances under which the workmen of the ex-lessee M/s. Serajuddin & Co., who had been taken into the employment of the O.M.C. were found surplus and were ultimately disengaged. It stated that since there were large number of such workers who remained idle, it suggested to the Workers' Union that 117 of such employees who were sitting idle should be disengaged. After protracted discussion, it was mutually agreed between the Management and the Union that out of the aforesaid 117 employees, 71 including 15 persons who had attained the age of superannuation found medically unfit should be retrenched. Out of the rest, 18 would be given fresh appointment as suggested by the Union only after they registered their names in the Local Employment Exchange and appeared at tests and interviews to be held for the purpose. Accordingly, a bi-partite agreement was entered into and signed between the Corporation and the Union representatives on 16-6-84 (Ext. D).

5. In view of the plea advanced by the First Party-Management that these concerned workmen were disengaged from employment with effect from 19-6-84 on ground of their attaining the age of superannuation or found medically unfit to continue in employment further, the sole question which needs determination in this proceeding is as to whether the said workmen had attained the age of superannuation or had been found medically unfit to continue in employment further, necessitating termination of their services with effect from 19-6-84.

6. At the outset, I may quote the order Ext. K, dated 19-6-84 by which the services of the aforesaid six workmen were terminated :—

"The following employees of M/s. Serajuddin & Company, the Ex-lessee of the SGBK Manganese Mine who were temporarily engaged vide Government letter Memo No. 6854/MG/BBSR dated 5-6-82 are no longer required by the O.M.C. Limited as they are found medically unfit/have attained the age of superannuation. As such, their engagement will be discontinued w.e.f. 19-6-1984.

**Sl. No. Name Designation**

1. Shri N. B. Kuanr—Sanitary Supervisor
2. Shri M. Saleem—Accountant
3. Shri J. R. Mohanty—Head Pandit
4. Shri Panu Apat—Trammer
5. Shri Sukhchand Barik—Tramline Mazdoor
6. Shri Mangal Majhi—Carpenter
7. Shri Kanhai Mahanta—Carpenter Helper
8. Shri Ananta Mahanta—Carpenter Helper
9. Shri Kushnu Mundu—Water Pump Attendant
10. Shri Kalipada Karua—Sweeper

11. Shri Manu Karua—Sweeper
12. Shri Md. A. Baker—Compounder
13. Shri Khetrabesi Mohakud—Gangman
14. Shri Padu Barik—Watchman
15. Shri Md. Saifi—Helper

Sd/-  
Mines Manager,  
S.G.B.K. Manganese M'ne.

This order does not reveal as to if all the six workmen had attained the age of superannuation or had been found medically unfit. It also does not reveal who out of the six workmen had attained the age of superannuation or had been found medically unfit.

7. On behalf of the Management, reliance was placed on the agreement entered into between the Management and the Union said to be representing the workmen. The representative of the concerned workmen vehemently contended that the so-called agreement entered into between the Management on the one hand and some other persons described as the representatives of the union on the other can not be relied upon to justify the action of the Management in terminating the services of the concerned workmen. It is submitted that the said document, Ext. D, is not an agreement or settlement and is described as a 'Minute of discussion'. It is signed by the representatives of the Corporation and some other persons as representatives of the Orissa Mining Workers Union but there is no proof available that these persons had the authority to sign such minutes of discussion on behalf of the Union. There is also no proof available that the concerned workmen authorised these persons to enter into any agreement with regard to their services and to agree to the termination of their services.

Industrial law recognises the binding nature of settlements. Section 2(p) of the Industrial Disputes Act, 1947 defines a settlement in the following manner :—

Section 2(p) : 'Settlement' means a settlement arrived at in the course of conciliation proceeding, and includes a written agreement between the employer and, workmen arrived at otherwise than in the course of conciliation proceeding where such agreement has been signed by the parties thereto in such manner as may be prescribed and a copy thereof has been sent to an Officer authorised in this behalf by the appropriate Government and the conciliation officer."

The aforesaid definition thus, includes a written agreement between the employer and the workmen (themselves or through the representatives of their Union) arrived privately, where such agreement has been signed by the parties thereto (or by their representatives) in such manner as prescribed and a copy thereof has been sent to the appropriate Government.

Rule 58 of the Industrial Disputes (Central) Rules provides that a settlement arrived at in the course of conciliation proceedings or otherwise, shall be in form 'H'. In the case before us the so-called settlement/agreement marked as Ext. D has not been drawn up in form-H. Sub-Rule 4 of Rule 58 provides that while a settlement is arrived at between an employer and his workmen otherwise than in the course of conciliation proceeding, before a Board or a Conciliation Officer, the parties to the settlement shall jointly send a copy thereof to the Central Government, the Chief Labour Commissioner (Central), New Delhi, and the Regional Labour Commissioner (Central) concerned. Admittedly, copy of Ext. D has not been sent to any of these authorities by either party.

Under such circumstance, the Management can not take assistance of the so-called agreement, Ext. D, to justify its action of terminating the services of the workmen on the

ground that they had reached the age of superannuation or were found medically unfit.

8. So far as the aforesaid question is concerned, M.W.2, who was the Mines Manager of the SGBK Manganese Mines of the O.M.C. from June 1983 to February 1985, stated that during his tenure in the aforesaid Mines he received the copy of the agreement Ext. D dated 16-6-84 from the General Manager of the Corporation with an instruction that he would terminate the services of 57 workers on retrenchment and terminate the services of 15 workers on superannuation. Thereafter, he issued the orders Ext. J & K. Ext. K is the termination order in respect of 15 workers on superannuation. During his cross-examination however, he could not say by seeing Ext. K as to which of the workmen out of the 15 were terminated on ground of superannuation and which of them were terminated on ground of being medically unfit. He stated that the Rules of the Corporation has specified the age of superannuation of its employees as 58 years but he could not say if the age of superannuation of Mazdoor and such low grade employees of the Corporation was 60 years.

The Orissa Mining Corporation Recruitment and Promotion Rules, 1976 was referred to in this connection by both parties. Clause-21 thereof which relates to superannuation and retirement of Corporation employees was specifically referred to. It reads :—

"An employee of the Corporation shall retire on completion of the age of 58 years subject to the condition that his work will be reviewed immediately before completion of his 55th years of age, with a view to see that he is mentally alert and physically fit to continue in service beyond his 55th years of age. The Chairman may, however, extend the service of an employee for a period of one year at a time upto the age of 60 years with Board's approval provided he is found to be physically fit and mentally alert for efficient discharge of his duties.

Extension of service beyond sixty years may be granted to an employee with approval of the Board if such extension is in the interest of the Corporation and the grounds therefore are recorded in writing before the date on which the retirement was normally due.

The age of superannuation of Class-IV employees of the Corporation is 60 years."

All the concerned workmen whose cases are being considered here were admittedly treated as Class IV employees of the Corporation and therefore they were entitled to continue in the employment of the Corporation till they completed 60 years of age.

Under such circumstance, it is to be examined as to what was the age of each such concerned employee as on 19-6-84 when his services were terminated on ground of superannuation or on ground that he was found medically unfit.

In this connection, the entry made in respect of these employees in the Form B register and the evidence of the Corporation's Medical Officer, M.W. 3, have been relied upon by the Management. The case of each of the concerned workmen covered by this Award is mentioned below :

#### (1) Sukchand Barik :—

In the Form B register marked Ext. H in I. D. Case No. 9 of 1987 (C), his age is mentioned as 56 years as on 18-6-82 which was the date of commencement of his employment. MW-3 stated that on 18-6-82 he examined Sukchand Barik, who appeared to him to be 56 years and he recorded the same in his medical examination report Ext. 1. There is no reason as to why in absence of any contrary evidence from the side of the workman, the evidence of MW-3 should be disbelieved.

In the circumstances, it is to be held that Sukchand Barik was 58 years old on 19-6-84 on the day he was retired.

The age of retirement on superannuation of his category of employee being 60 years, he should have continued for two years more and should have retired on superannuation on 18-6-86. In the circumstances he must be held entitled to wages for the period from 19-6-84 to 18-6-86 which he would have received from the Corporation had he not been retired from service with effect from 19-6-84.

#### (2) Mangal Majhi :—

In the Form B register marked Ext. M in I. D. Case No. 10 of 1987 (C), his age is mentioned as 56 years as on 18-6-82 which was the date of commencement of his employment. MW-3 stated that on 18-6-82 he examined Mangal Majhi who appeared to him to be 56 years and he recorded the same in his medical examination report Ext. 1. There is no reason as to why in absence of any contrary evidence from the side of the workman, the evidence of MW-3 should be disbelieved.

In the circumstances, it is to be held that Mangal Majhi was 58 years old on 19-6-84, on the day he was retired. The age of retirement on superannuation of his category of employee being 60 year, he should have continued for two years more and should have retired on superannuation on 18-6-86. In the circumstances, he must be held entitled to wages for the period from 19-6-84 to 18-6-86 which he would have received from the Corporation had he not been retired from service with effect from 19-6-84.

#### (3) N. B. Kuanr :—

In the Form B register marked Ext. N in I. D. Case No. 11 of 1987 (C), his age is mentioned as 56 years as on 18-6-82 which was the date of commencement of his employment. MW-3 stated that on 18-6-82 he examined Natabar Kuanr who appeared to him to be 56 years and he recorded the same in his medical examination report. There is no reason as to why in absence of any contrary evidence from the side of the workman, the evidence of MW-3 should be disbelieved.

In the circumstances, it is to be held that N. B. Kuanr was 58 years old on 19-6-84 on the day he was retired. The age of retirement on superannuation of his category of employee being 60 year, he should have continued for two years more and should have retired on superannuation on 18-6-86. In the circumstances, he must be held entitled to wages for the period from 19-6-84 to 18-6-86 which he would have received from the Corporation had he not been retired from service with effect from 19-6-84.

#### (4) Kushnu Munda :—

In the Form B register marked Ext. O in I. D. Case No. 21 of 1987 (C), his age is mentioned as 57 years as on 18-6-82 which was the date of commencement of his employment. MW-3 stated that on 18-6-82 he examined Kushnu Munda and on the basis of his examination report entries relating to Kushnu Munda were made in the Form B register. There is no reason as to why in absence of any contrary evidence from the side of the workman, the evidence of MW-3 should be disbelieved.

In the circumstances, it is to be held that Kushnu Munda was 59 years of old on 19-6-84 on the day he was retired. The age of retirement on superannuation of his category of employee being 60 years, he should have continued for one year more and should have retired on superannuation on 18-6-85. In the circumstances, he must be held entitled to wages for the period from 19-6-84 to 18-6-85 which he would have received from the Corporation had he not been retired from service with effect from 19-6-84.

#### (5) Md. Saleem :—

In the Form B register marked Ext. A in I. D. Case No. 22 of 1987 (C), his age is mentioned as 56 years as on 18-6-82 which was the date of commencement of his employment. MW-3 stated that on 18-6-82 he examined Md. Saleem and on the basis of his examination report entries relating to Md. Saleem were made in the Form B register. There is no reason as to why in absence of any

contrary evidence from the side of the workman, the evidence of MW-3 should be disbelieved.

In the circumstances, it is to be held that Md. Saleem was 8 years old on 19-6-84 on the day he was retired. The age of retirement on superannuation of his category of employee being 60 years, he should have continued for two years more and should have retired on superannuation on 18-6-86. In the circumstances, he must be held entitled to wages for the period from 19-6-84 to 18-6-86 which he would have received from the Corporation had he not been retired from service with effect from 19-6-84.

(6) Khetrabasi Mohakud :—

In the Form B register marked Ext. P in I. D. Case No. 24 of 1987 (C), his age is mentioned as 56 years as on 19-6-82 which was the date of commencement of his employment. MW-3 stated that on 18-6-82 he examined Khetrabasi Mohakud and on the basis of his examination report, entries relating to Khetrabasi Mohakud were made in the Form B register. There is no reason as to why in absence of any contrary evidence from the side of the workman, the evidence of MW-3 should be disbelieved.

In the circumstances, it is to be held that Khetrabasi Mohakud was 58 years old on 19-6-84 on the day he was retired. The age of retirement on superannuation of his category of employee being 60 years, he should have continued for two years more and should have retired on superannuation on 18-6-84. In the circumstances he must be held entitled to wages for the period from 19-6-84 to 18-6-86 which he would have received from the Corporation had he not been retired from service with effect from 19-6-84.

9. In the circumstances, there is no escape from the conclusion that the services of the above named six workmen were illegally terminated with effect from 19-6-84 on the ground that they had reached the age of superannuation. They would be entitled to wages for the period mentioned against each of them in the body of the Award. However, it is seen that with effect from 19-6-84 72 workmen were terminated as per Exts. I and K. Out of them 57 were retrenched on the ground that they were surplus and 15 were terminated on the ground that they had attained the age of superannuation. In Awards passed earlier by this Tribunal relating to the retrenched workmen, direction had been given for their reinstatement in service with 50% back wages, taking into consideration the circumstances under which they had been taken into employment of the Corporation and also the financial position of the Corporation. In O.J.C. Nos 4489 of 1989, 4473 of 1989, 4475 of 1989, 4490 of 1989 and 4491 of 1989, Hon'ble High Court of Orissa have confirmed the said Awards in respect of five such workmen. On the same circumstances, I think in the present case also I should direct that the above named six workmen are entitled to 50% back wages for the period they remained unemployed being prematurely retired until they attained the age of superannuation mentioned in respect of each of them in the body of this Award.

The reference are answered accordingly

Dictated and corrected by me

S. K. MISRA, Presiding Officer

[No. I-27012/10/85-D.III (B)]  
[No. I-27012/12/85-D.III (B)]  
[No. I-27012/11/85-D.III (B)]  
[No. I-27012/9/85-D.III (B)]  
[No. I-27012/8/85-D.III (B)]  
[No. I-27012/7/85-D.III (B)]

का. आ 211 —श्रीयोगिक विवाद प्रधिनियम, 1917 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सर्वान्धम, जो वो के मैग्नेज माइन्स आर्क मैसर्स उडीसा माइनिंग कार्पोरेशन वि., दो भ्र. गल्ला, बाया जोडा, जिला रिपोर्टर के प्रबन्ध-मंत्र के मध्यम नियोजकों द्वारा उनके कर्मकारों के बीच, अन्तर्भूत में निर्दिष्ट श्रीयोगिक विवाद में श्रीयोगिक प्रधिकरण, उर्द्धमा, भवनेश्वर के पचासठ बीं प्रकाशन फर्मी है, जो केन्द्रीय सर्वान्धम का 2-1-1991 को पास हुआ था।

S.O. 211.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal, Orissa, Bhubaneswar as shown in the Annexure, in the industrial dispute between the employers in relation to the management of SGBK Manganese Mines of M/s. Orissa Mining Corp., Ltd., At/P.O. Guruda, Via: Joda, Distt. Keonjhar and their workmen, which was received by the Central Government on 2-1-1991.

ANNEXURE

INDUSTRIAL TRIBUNAL, ORISSA, BHUBANESWAR

PRSFNT :

Shri S. K. Misra, LL.B.,  
Presiding Officer,  
Industrial Tribunal,  
Orissa, Bhubaneswar.

Industrial Dispute case Nos. 20, 31, 34, 36 & 37 of 1987 (Central).

Dated, Bhubaneswar, the 22nd December, 1990

BETWEEN :

The Management of SGBK Manganese Mines of M/s. Orissa Mining Corporation Ltd., At/P.O. Guruda,  
Via: Joda, Dist: Keonjhar. (In all the five cases)  
...First Party-Management.

AND

Their workmen named below :—

- 1 Sri Manu Karua.—In I.D. Case No. 20 of 1987 (C).
- 2 Sri Panu Apat.—In I.D. Case No. 31 of 1987 (C).
- 3 Sri Md. Abou Baker.—In I.D. Case No. 34 of 1987 (C).
- 4 Sri Kalipada Karua.—In I.D. Case No. 36 of 1987 (C).
5. Sri Kahnei Mahanto.—In I.D. Case No. 37 of 1987 (C).

APPEARANCES :

Sri P. S. Kanungo, Sr. Labour Welfare Officer—For the First Party—Management.

Sri B. Khillar, General Secretary of the Orissa Mining Workers Union—For the Second Party—Workmen.

AWARD

The Government of India in the Ministry of Labour, in exercise of powers conferred upon them by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), have referred the following disputes for adjudication by this Tribunal :—

1 I.D. Case No. 20 of 1987 (C)—Reference No. L-27012/6/85-D. III(B) dated 26-2-87.

“Whether the action of the management of SGBK Manganese Mines of M/s. Orissa Mining Corporation Limited, At/P.O. Guruda, Via: Joda Distt. Keonjhar in terminating the services of Shri Mann Karua, Sweeper, is justified? If not to what relief is the workman entitled?”

2 I.D. Case No. 31 of 1987 (C)—Reference No. L-27012/36/85-D.III(B) dated 12-3-87.

“Whether the action of the Management of SGBK Manganese Mines of M/s. Orissa Mining Corporation Ltd., At/P.O. Guruda, Via: Joda Distt. Keonjhar in terminating the services of Shri Pannu Aanu Mazdoor with effect from 19-6-84 is justified? If not, to what relief is the worker entitled?”

3 I.D. Case No. 34 of 1987 (C)—Reference No. L-27012/40/85-D.III(B) dated 12-3-87

“Whether the action of the Management of SGBK Manganese Mines of M/s. Orissa Mining Corporation Ltd., At P.O. Guruda, Via: Joda, Dist

Keonjhar in terminating the services of Shri Md. Abou Baker, Ex. Compounder with effect from 19-6-84 is justified? If not, to what relief is the worker entitled?"

4. I.D. Case No. 36 of 1987 (C).—Reference No. L-27012/39/85-D.III(B) dated 17-3-87.

"Whether the action of the Management of SGBK Manganese Mines of M/s. Orissa Mining Corporation Ltd., At/P.O. Guruda, Via. Joda, Distt. Keonjhar in terminating the services of Shri Kalipada Karua, Sweeper with effect from 19-6-1984 is justified? If not, to what relief is the worker entitled?"

5. I.D. Case No. 37 of 1987 (C).—Reference No. L-27012/42/85-D.III(B) dated 17-3-87.

"Whether the action of the Management of SGBK Manganese Mines of M/s. Orissa Mining Corporation Ltd., At/P.O. Guruda, Via. Joda, Distt. Keonjhar in terminating the services of Shri Kahnei Mahanto, Carpenter Helper with effect from 19-6-1984 is justified? If not, to what relief is the worker entitled?"

The petition filed by the Management for hearing the above cases analogously was allowed by an order passed on 27-6-90 in I.D. Case No. 20 of 1987 (C). Pursuant to the said order, these five cases were clubbed together.

2. S.G.B.K. Manganese Mines was being operated by M/s. Serajuddin & Co. under a lease granted by the Govt. of Orissa. The lease of the said company expired and was not renewed. The State Government of Orissa took over possession of the said mines on 28-5-82 and thereafter, made over the same to M/s. Orissa Mining Corporation Ltd (for short O.M.C.) for operating the same as an agent of the State Government. One of the reasons for taking such step was to provide employment to the employees of the ex-lessee, who had been working in the Mines. This above fact is reflected in the letter dated 5-6-82 sent by the Deputy Secretary to Govt. of Orissa, Mining and Geology Department to the Director of Mines, Orissa (Ext. A). The O.M.C. took over the Mines in question as per the above arrangement. On 17-6-82, the Mines Manager issued appointment letters to the concerned workmen—Manu Karua, Panu Apat, Md. Abou Baker, Kalipada Karua and Kahnei Mahanto appointing them in the Mines for a period of 60 days on purely casual basis. Manu Karua was appointed as a Sweeper, Panu Apat was appointed as a Trammer, Md. Abou Baker was appointed as a Compounder, Kalipada Karua was appointed as a Sweeper and Kahnei Mahanto was appointed as a Carpenter Helper. The appointment of the above named five workmen was extended from time to time without any interruption till 19-6-84, when they were disengaged on the ground that their services were no longer required by the Corporation (Ext. B/5) as they were found medically unfit/had attained the age of superannuation. The workmen whose cases are dealt with in the present Award are mentioned at serial Nos. 11, 4, 12, 10 and 7 of Ext. B/5.

\*\*\*      ग्रन्थ      ग्रन्थ      ग्रन्थ

3. The second party-workmen challenged the termination orders notified in Ext. B/5 on the ground that the same were given effect to without compliance of the requirements of Section 25-N of the Industrial Disputes Act, which was applicable to the First Party's establishment and further that at the time of disengagement the concerned workmen were fit and able to perform their duties. They demanded reinstatement with full back wages.

4. The First Party-Management filed written statement stating the circumstances under which the workmen of the ex-lessee M/s. Serajuddin & Co., who had been taken into the employment of the O.M.C. were found surplus and were ultimately disengaged. It stated that since there were large number of such workers who remained idle it suggested to the Workers' Union that 117 of such employees, who were sitting idle should be disengaged. After protracted dis-

cision, it was mutually agreed between the Management and the Union that out of the aforesaid 117 employees, 71 including 15 persons who had attained the age of superannuation/ found medically unfit should be retrenched. Out of the rest, 18 would be given fresh appointment as suggested by the Union only after they registered their names in the Local Employment Exchange and appeared at tests and interviews to be held for the purpose. Accordingly, a bi-partite agreement was entered into and signed between the Corporation and the Union representatives on 16-6-84 (Ext. D).

5. In view of the plea advanced by the First Party—Management that these concerned workmen were disengaged from employment with effect from 19-6-84 on the ground of their attaining the age of superannuation or found medically unfit to continue in employment further, the sole question which needs determination in this proceeding is as to whether the said workmen had attained the age of superannuation or had been found medically unfit to continue in employment further, necessitating termination of their services with effect from 19-6-84.

6. At the outset, I may quote the order Ext. B/5 dated 19-6-84 by which the services of the aforesaid five workmen were terminated :—

XX      XX      XX      XX      XX

"The following employees of M/s. Serajuddin & Company, the Ex-lessee of the SGBK Manganese Mine who were temporarily engaged vide Government letter Memo No. 6854/MG/BBSR dt. 5-6-82 are no longer required by the O.M.C. Limited as they are found medically unfit/have attained the age of superannuation. As such, their engagement will be discontinued w.e.f. 19-6-1984 :—

Sl. No.	Name	Designation
1. S Shri N. B. Kuatr		Sanitary Supervisor
2. S Shri M. Saleem		Accountant
3. S Shri J. R. Mohanta		Head Pandit
4. S Shri Panu Apat		Trammer
5. S Shri Sukchand Barik		Tramline Mazdoor
6. S Shri Mangal Majhi		Carpenter
7. S Shri Kahnei Mahanta		Carpenter Helper
8. S Shri Ananta Mahanta		Carpenter Helper
9. S Shri Kushnu Munda		Water Pump Attendant
10. S Shri Kalipada Karua		Sweeper
11. S Shri Manu Karua		Sweeper
12. S Shri Md. A. Baker		Compounder
13. S Shri Khetrabasi Mohakud		Gangman
14. S Shri Padu Barik		Watchman
15. S Shri Md. Saffi		Helper
		Sd/-

Mines Manager,

S. G. B. K. Manganese Mine.

This order does not reveal as to if all the five workmen had attained the age of superannuation or had been found medically unfit. It also does not reveal who out of the five workmen had attained the age of superannuation or had been found medically unfit.

7. On behalf of the Management, reliance was placed on the agreement entered into between the Management and the Union said to be representing the workmen. The representative of the concerned workmen vehemently contended that the so-called agreement entered into between the Management on the one hand and some other persons described as the representatives of the Union on the other, can not be relied upon to justify the action of the Management in terminating the services of the concerned workmen. It is submitted that the said document, Ext. D, is not an agreement

or settlement and is described as a 'Minutes of discussion'. It is signed by the representatives of the Corporation and some other persons as representatives of the Orissa Mining Workers' Union but there is no proof available that these persons had the authority to sign such minutes of discussion on behalf of the Union. There is also no proof available that the concerned workmen authorised these persons to enter into any agreement with regard to their services and to agree to the termination of their services.

Industrial law recognises the binding nature of settlements. Section 2(p) of the Industrial Disputes Act, 1947, defines a settlement in the following manner :—

Section 2(p) : "Settlement" means a settlement arrived at in the course of conciliation proceeding, and includes a written agreement between the employer and, workmen arrived at otherwise than in the course of conciliation proceeding where such agreement has been signed by the parties thereto in such manner as may be prescribed and a copy thereof has been sent to an Officer authorised in this behalf by the appropriate Government and the conciliation officer;"

The aforesaid definition thus, includes a written agreement between the employer and the workmen (themselves or through the representatives of their union) arrived privately, where such agreement has been signed by the parties thereto (or by their representatives) in such manner as prescribed and a copy thereof has been sent to the appropriate Government.

Rule 58 of the Industrial Disputes (Central) Rules provides that a settlement arrived at in the course of conciliation proceedings or otherwise, shall be in form 'H'. In the case before us the so-called settlement/agreement marked Ext. D has not been drawn up in form-H. Sub-Rule 4 of Rule 58 provides that where a settlement is arrived at between an employer and his workmen otherwise than in the course of conciliation proceeding, before a Board or a Conciliation Officer, the parties to the settlement shall jointly send a copy thereof to the Central Government, the Chief Labour Commissioner (Central), New Delhi, and the Regional Labour Commissioner (Central) concerned. Admittedly, copy of Ext. D has not been sent to any of these authorities by either party.

Under such circumstance, the Management can not take assistance of the so-called agreement, Ext. D, to justify its action of terminating the services of the workmen on the ground that they had reached the age of superannuation or were found medically unfit.

The Orissa Mining Corporation Recruitment and Promotion Rules, 1976 was referred to in this connection by both parties. Clause 21 thereof which relates to superannuation and retirement of Corporation employees was specifically referred to. It reads :—

"An employee of the Corporation shall retire on completion of the age of 58 years subject to the condition that his work will be reviewed immediately before completion of his 55th years of age, with a view to see that he is mentally alert and physically fit to continue in service beyond his 55th years of age. The Chairman may, however, extend the service of an employee for a period of one year at a time upto the age of 60 years with Board's approval provided he is found to be physically fit and mentally alert for efficient discharge of his duties.

Extension of services beyond sixty years may be granted to an employee with approval of the Board if such extension is in the interest of the Corporation and the grounds therefor are recorded in writing before the date on which the retirement was normally due.

The age of superannuation of Class-IV employees of the Corporation is 60 years."

All the concerned workmen whose cases are being considered here were admittedly treated as Class-IV employees of the Corporation and therefore they were entitled to continue in the employment of the Corporation till they completed 60 years of age.

Under such circumstance, it is to be examined as to what was the age of each such concerned employee as on 19-6-84 when his services were terminated on ground of superannuation or on ground that he was found medically unfit.

In this connection, the reports of the medical examination in respect of these employees and the evidence of the Corporation's Medical Officer, M.W.1 have been relied upon by the Management. The case of each of the concerned workmen covered by this Award is mentioned below :—

(1) Manu Karua :

In the report of the medical examination marked Ext. F in I.D. Case No. 20 of 1987 (C), his age is mentioned as 58 years as on 3-5-84. M.W. 1 stated that on 18-6-82 he examined Manu Karua, who appeared to him to be 56 years and on the basis of his examination report entries relating to Manu Karua were made in the Form-B register. There is no reason as to why in absence of any contrary evidence from the side of the workman, the evidence of M.W.1 should be disbelieved.

In the circumstance, it is to be held that Manu Karua was 58 years old on 19-6-84, on the day he was retired. The age of retirement on superannuation of his category of employee being 60 years, he should have continued for two years more and should have retired on superannuation on 18-6-86. In the circumstance, he must be held entitled to wages for the period from 19-6-84 to 18-6-86 which he would have received from the Corporation had he not been retired from service with effect from 19-6-84.

(2) Panu Apat :

In the report of the medical examination marked Ext. F/1 in I. D. Case No. 31 of 1987 (C), his age is mentioned as 58 years as on 3-5-84. M.W.1 stated that on 18-6-82 he examined Panu Apat, who appeared to him to be 56 years and on the basis of his examination report entries relating to Panu Apat were made in the Form-B register. There is no reason as to why in absence of any contrary evidence from the side of the workman, the evidence of M.W.1 should be disbelieved.

In the circumstance, it is to be held that Panu Apat was 58 years old on 19-6-84, on the day he was retired. The age of retirement on superannuation of his category of employee being 60 years he should have continued for two years more and should have retired on superannuation on 18-6-86. In the circumstance, he must be held entitled to wages for the period from 19-6-84 to 18-6-86 which he would have received from the Corporation had he not been retired from service with effect from 19-6-84.

(3) Md. Abou Baker :

In the report of the medical examination marked Ext. F/2 in I.D. Case No. 34 of 1987 (C), his age is mentioned as 53 years as on 18-6-82. M.W.1 stated that on 18-6-82 he examined Md. Abou Baker, who appeared to him to be 53 years and on the basis of his examination report entries relating to Md. Abou Baker were made in the Form-B register. There is no reason as to why in absence of any contrary evidence from the side of the workman, the evidence of M.W.1 should be disbelieved.

In the circumstances, it is to be held that Md. Abou Baker was 53 years old on 19-6-84, on the day he was retired. The age of retirement on superannuation of his category of employee being 60 years, he should have continued for five years more and should have retired on superannuation on 18-6-89. In the circumstances, he must be held entitled to wages for the period from 19-6-84 to 18-6-89 which he would have received from the Corporation had he not been retired from service with effect from 19-6-84.

(4) Kalipada Karua :

In the report of the medical examination marked Ext. F/3 in I.D. Case No. 36 of 1987 (C), his age is mentioned as 57 years as on 18-6-82. M.W.1 stated that on 18-6-82 he examined Kalipada Karua, who appeared to him to be 57 years and on the basis of his examination report entries

relating to Kalipada Karua were made in the Form-B register. There is no reason as to why in absence of any contrary evidence from the side of the workman, the evidence of M.W.I should be disbelieved.

In the circumstance, it is to be held that Kalipada Karua was 59 years old on 19-6-84, on the day he was retired. The age of retirement on superannuation of his category of employee being 60 years, he should have continued for one year more and should have retired on superannuation on 18-6-85. In the circumstance, he must be held entitled to wages for the period from 19-6-84 to 18-6-85 which he would have received from the Corporation had he not been retired from service with effect from 19-6-84.

(5) Kahnei Mahanto :

In the report of the medical examination marked Ext. F/4 in I.D. Case No. 37 of 1987 (C), his age is mentioned as 57 years as on 18-6-82. M.W.I stated that on 18-6-82 he examined Kahnei Mahanto, who appeared to him to be 57 years and on the basis of his examination report entries relating to Kahnei Mahanto were made in the Form-B register. There is no reason as to why in absence of any contrary evidence from the side of the workman, the evidence of M.W.I should be disbelieved.

In the circumstance, it is to be held that Kahnei Mahanto was 59 years old on 19-6-84, on the day he was retired. The age of retirement on superannuation of his category of employee being 60 years, he should have continued for one year more and should have retired on superannuation on 18-6-85. In the circumstance, he must be held entitled to wages for the period from 19-6-84 to 18-6-85 which he would have received from the Corporation had he not been retired from service with effect from 19-6-84.

8. In the circumstance, there is no escape from the conclusion that the services of the abovenamed five workmen were illegally terminated with effect from 19-6-84 on the ground that they had reached the age of superannuation. They would be entitled to wages for the period mentioned against each of them in the body of the Award. However, it is seen that with effect from 19-6-84, 72 workmen were terminated as per Exts B/5 and B/6. Out of them 57 were retrenched on the ground that they had been surplus. In Awards passed earlier by this Tribunal relating to the retrenched workmen, direction had been given for their reinstatement in service with 50 per cent back wages, taking into consideration the circumstances under which they had been taken into employment of the Corporation and also the financial position of the Corporation. In O.J.C. Nos. 4489 of 1989, 4473 of 1989, 4475 of 1989, 4490 of 1989 and 4491 of 1989, Hon'ble High Court of Orissa have confirmed the said Awards in respect of five such workmen. On the same circumstance, I think, in the present case also, I should direct that the above named five workmen are entitled to 50 per cent back wages for the period they remained unemployed being prematurely retired until they attained the age of superannuation mentioned in respect of each of them in the body of this Award.

The references are answered accordingly. Dictated and corrected by me.

S. K. MISRA, Presiding Officer  
Industrial Tribunal  
Dt. 22-12-90

[No. L-27012/6/85-D.III(B)  
L-27012/36/85-D.III(B)  
L-27012/40/85-D.III(B)  
L-27012/39/85-D.III(B)  
L-27012/42/85-D.III(B)]

नई दिल्ली, 10 जनवरी, 1991

का. गा. ११.—केन्द्रीय सरकार का गमाधान हो गया है कि लोक-सेवा में ऐसा क्षेत्र है कि नाया व्यवस्था उद्दोग को, जो शैक्षणिक विकास प्रविनियम, 1947 (1947 ना 14) की प्रथम मनुसंगी की प्रविनियम 13

के प्रवन्नर्यन आवा है, उक्त अधिनियम के प्रयोजनों के लिए लोक उपयोगी सेवा घोषित किया जाना चाहिए,

अत अब, शैक्षणिक विकास अधिनियम, 1947 (1947 का 14) की धारा 2 के खंड (५) के उपखंड (vi) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार उक्त उद्योग को उक्त अधिनियम के इयाजनाथ तत्काल प्रभाव से छ मास के वालावार्ध के लिए लोक उपयोगी सेवा घोषित करता है।

[मध्या.प्र. - 11017/7/85/इ-1(ए)]

New Delhi, the 10th January, 1991

S.O. 212.—Whereas the Central Government is satisfied the public interest requires that the Copper Mining Industry which is covered by entry 13 in the First Schedule to the Industrial Disputes Act, 1947 (14 of 1947), should be declared to be a public utility service for the purposes of the said Act;

Now, therefore, in exercise of the powers conferred by sub-clause (vi) of clause (n) of section 2 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby declares with immediate effect the said industry to be a public utility service for the purposes of the said Act for a period of six months.

[No. S-11017/7/85-D.I(A)]

का. गा. 213—केन्द्रीय सरकार का यह गमाधान हो जाने पर कि लोकहित में ऐसा करना आवश्यक है, शैक्षणिक विकास अधिनियम 1947 (1947 का 14) की धारा 2 के खंड (ग) की उपधारा (6) के मनुसंगी में भारत सरकार के अस मवालय की तारीख 20 जुलाई, 1990 का अधिसूचना मख्या 2109 के तहत दिल्ली दुर्घ मोजना के अधीन दुर्घ आपूर्ति उद्योग को उक्त अधिनियम के प्रयोजनाथ 29 जुलाई, 1990 से छ ह माह भी कालावार्ध के लिए लोकपयांग, सेवा घोषित किया था,

आर केन्द्रीय सरकार का राय है कि लोकहित में उक्त अवधि का प्रारंभ दूसरे माह के लिए बढ़ाना आवश्यक है,

अत अब शैक्षणिक विकास अधिनियम, 1947 (1947 का 14) की धारा 2 के खंड (ग) का उपधारा (6) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार उक्त उद्योग को उक्त अधिनियम के प्रयोजनाथ 29 जनवरी, 1991 से ८ ह माह की कालावधि के लिए लोकपयांगी सेवा घोषित करने हैं।

[मध्या.प्र. - 11017/14/81-इ-1(ए)]

S.O. 213.—Whereas the Central Government having been satisfied that the public interest so required had in pursuance of the provision of sub-clause (vi) of clause (n) of section 2 of the Industrial Disputes Act, 1947 (14 of 1947), declared by the notification of the Government of India in the Ministry of Labour S.O. No. 2109 dated the 20th July, 1990 the industry for the supply of milk under the Delhi Milk Scheme to be a public utility service for the purpose of the said Act, for a period of six months from the 29th July, 1990;

And whereas, the Central Government is of opinion that public interest requires the extension of the said period by a further period of six months;

Now, therefore in exercise of the powers conferred by the proviso to sub-clause (vi) of clause (n) of section 2 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby declares the said industry to be a public utility service for the purpose of the said Act, for a further period of six months from the 29th January, 1991.

[No. S-11017/14/81-D.I(A)]

का. आ. 214.—केन्द्रीय सरकार ने यह समाधान हो जाने पर कि सोकहित में ऐसा करना अपेक्षित था औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) को धारा 2 के खंड (६) के उपखंड (६) के उपबंधों के अनुसरण में, भारत सरकार के भ्रम संत्रान्त का अधिसूचना सम्बन्ध था। आ. 2165 दिनांक 25 जुलाई, 1990 द्वारा संस्टेट उद्योग को उक्त अधिनियम के प्रयोजनों के लिए 23 जुलाई, 1990 से छह मास की कालावधि के लिए लोक उपयोगी सेवा घोषित किया था,

और केन्द्रीय सरकार का राय है कि सोकहित में उक्त कालावधि का छह मास की ओर कालावधि के लिए बढ़ाया जाना अपेक्षित है।

अत गव, औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 2 के खंड (६) के उपखंड (६) के परन्तु द्वारा प्रदत्त गवित्रों का प्रयोग करते हुए, केन्द्रीय सरकार उक्त उद्योग को उक्त अधिनियम के प्रयोजनों के लिए 25 जनवरी, 1991 से छह मास की ओर कालावधि के सिए लोक उपयोगी सेवा घोषित करती है।

[प्राइवेट संख्या एम-11017/13/85-डी-1(ए)]

वा. नं. शर्मा, डेस्क अधिकारी

S.O. 214.—Whereas the Central Government having been satisfied that the public interest so required had, in pursuance of the provision of sub-clause (vi) of clause (n) of section 2 of the Industrial Disputes Act, 1947 (14 of 1947), declared by the Notification of the Government of India in the Ministry of Labour S.O. 2165 dated the 25th July, 1990 the Cement Industry to be a public utility service for the purposes of the said Act, for a period of six months, from the 25th July, 1990;

And, whereas, the Central Govt. is of opinion that public interest requires the extension of the said period by a further period of six months;

Now, therefore, in exercise of the powers conferred by the proviso to sub-clause (vi) of clause (n) of section 2 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby declares the said industry to be a public utility service for the purposes of the said Act, for a further period of six months from the 25th January, 1991.

[No. S-11017/13/85-D.I(A)]

V. K. SHARMA Desk Officer

नई दिल्ली, 2 जनवरी, 1991

का. आ. 215.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) को धारा 17 के अनुसरण में, केन्द्रीय सरकार न्यू केन्ड्रा कार्मिकार्यालय में ई०सो० लिमिटेड, के प्रबंधतात्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्विष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकारण, आसनसोल के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 31-12-90 को प्राप्त हुआ था।

New Delhi, the 2nd January, 1991

S.O. 215.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Asansol as shown in the Annexure, in the industrial dispute between the employers in relation to the management of New Kenda Colliery of M/s. E.C. Ltd and their workmen, which was received by the Central Government on 31-12-90.

#### ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL, ASANSOL

Reference No. 45/90

PRESENT :

Shri N. K. Saha, Presiding Officer.

#### PARTIES :

Employers in relation to the management of New Kenda Colliery of M/s. E.C. Ltd.

AND

Their Workmen

#### APPEARANCES:

For the Employers—None.

For the Workman—None.

INDUSTRY : Coal.

STATE : West Bengal.

Dated, the 10th December, 1990

#### AWARD

The Government of India in the Ministry of Labour in exercise of the powers conferred on them by Clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 has referred the following dispute to this Tribunal for adjudication vide Ministry's Order No. L-22012(129)/90-IR(C.II) dated the 22nd October, 1990.

#### SCHEDULE

"Whether the action of the management of New Kenda Colliery of M/s. Eastern Coalfields Ltd., P.O. Bahaula Dist. Burdwan, in dismissing Shri Bhola Bouri, Underground Loader with effect from 22-11-84 is justified? If not, to what relief is the concerned workman entitled?"

2. To-day (10-12-90) is the date fixed for filing written statement by the union. None appears for the union. It appears from the record that after receipt of the schedule of the Reference from the Ministry a notice was sent to the union asking to take steps by 17-11-90. The registered notice was duly served. But 17-11-90 was declared as a holiday. None appeared on any date after 17-11-90. So 10-12-90 was fixed for filing written statement by the union. But no step has been taken by the union. So it appears to me that no dispute exists and as such a 'no dispute' award is passed.

This is my award.

N. K. SAHA, Presiding Officer

[No. L-22012/129/90-IR(C.II)]

का. आ. 216.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14 की धारा 17 के अनुसरण में, केन्द्रीय सरकार द्वारा कार्यालय आफ है. सी. लिमिटेड के प्रबंधतात्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्विष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकारण, आसनसोल के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 1-1-1991 को प्राप्त हुआ था।

S.O. 216.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Asansol as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Kenda Colliery of M/s. E.C. Ltd. and their workmen, which was received by the Central Government on 1-1-91.

#### ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL, ASANSOL

Reference No. 32/89

#### PRESENT :

Sri N. K. Saha, Presiding Officer,

#### PARTIES :

Employers in relation to the Management of Kenda Colliery of E.C. Ltd.

AND

Their Workmen



capital punishment. The Hon'ble Supreme Court has held that capital punishment shall be imposed in a rare of the rarest cases. I find that this principle also should be followed in a case like the present one. So I find that the dismissal from service was not justified. I find that in a case like the present one if the entire back wages of the concerned workman is forfeited that would serve as sufficient punishment in a case like the present one.

9. So I held that the dismissal of Sri Biswanath Mahato, Underground Loader of Kharda Colliery of Eastern Coalfields Ltd., w.e.f. 2-5-87 is not justified. Sri Biswanath Mahato shall be reinstated in service within three months from the date of publication of this award in official gazette. The entire back wages till the date of reinstatement is forfeited as punishment.

This is my award.

N. K. SAHA, Presiding Officer

[No. L-22012/6/b9-JR(C.I.D)]

नं८ दिनी, ३ जनवरी, १९९१

का.आ 217 —प्रीतोगिक विवाद अविनियम, 1947 (1947 का 14 की धारा 17 के प्रत्युत्तर में, केन्द्रीय सरकार सोलापुर शामी बैंक, के प्रबन्धन के मध्य नियोजकों और उनके कर्मकारों के बीच अनुबंध में विविट्ट प्रीतोगिक विवाद में केन्द्रीय सरकार श्रीयोगिक अधिकारण व श्रम व्यापालय न. 1 अध्यक्ष के पचास को प्रकाशित करनी है, जो केन्द्रीय सरकार को 2-1-91 को प्राप्त हुआ था।

New Delhi, the 3rd January, 1991

S.O. 217.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal-Cum-Labour Court No. 1, Bombay as shown in the Annexure in the industrial dispute between the employer in relation to the management of Solapur Gramin Bank and their workmen, which was received by the Central Government on 2-1-91.

#### ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR

COURT NO. 1 AT BOMBAY

(Presiding Officer : Justice S. N. Khati)

Reference No. CGIT-46 of 1989

Reference No. CGIT-56 of 1989

#### PARTIES :

Employers in relation to the Management of Solapur Gramin Bank.

AND

Their Workmen

#### APPEARANCES:—

For the Management:—Shri R. B. Pitale, Advocate.

For the Workmen—Shri M. B. Anchan, Advocate.  
INDUSTRY : Banking STATE : Maharashtra

Bombay, dated 21st December, 1990

#### AWARD

The Central Government has referred the following two industrial disputes to this Tribunal under section 10 of the Industrial Disputes Act for adjudication :

Reference No. CGIT-46 of 1989

Whether the action by the management of Solapur Gramin Bank in relation to its Head Office and Branches located in its area at Solapur for not signing

a settlement in conciliation on the strike notice dated 15-12-88 with the Solapur Gramin Bank Staff Union is justified ? If not, what relief the workmen are entitled to?"

Reference No. CGIT-56 of 1989

"Whether the action of the management of Solapur Gramin Bank in relation of the Head Office and branches located in Solapur, in refusing to sign a settlement arrived at during conciliation proceedings in respect of the industrial dispute raised by the Solapur Gramin Staff Union over a charter of demands, is justified ? If not, to what relief the workmen are entitled ?"

This Award disposes of both these references together as the parties and facts involved are common.

2. The material facts are not in dispute. The Solapur Gramin Bank (for short 'the Bank') was established in January 1984 under the Regional Rural Banks Act, 1976 with its Head Office at Solapur and branches spread over the entire district. The Solapur Gramin Bank Staff Union (hereafter 'the Union') which claims to represent employees of all categories in the Bank (Officers, included) put up various demands on behalf of all categories of the staff to the Bank by its several letters from March to November 1988. Finally by its charter of demands dated 30th November, 1988 it again pressed the demands : The details are available in para 9 of the statement of claim. It is not necessary to repeat them here, however, it may be noted that these demands are on behalf of all the categories of the employees. The Bank refused to discuss the matter with the Union on the ground that it was a composite Union of Workmen as well as Officers. Eventually the Union issued a strike notice dated 15th December, 1988 under section 22 of the Act. The matter came up before Assistant Labour Commissioner (Central) Pune. The Bank stuck to its stand. The Assistant Commissioner sent a failure report to the Central Government, which has referred the disputes to this Tribunal for adjudication.

3. Now here before me, the Union submits that the Labour Court of Jaipur has given a decision that even Officers and Field Supervisors of Gramin Bank are Workmen within the meaning of the Industrial Disputes Act. They pray that the Bank be directed to enter into negotiations with the Union and reach a just settlement with them. In the alternative they request the Tribunal to itself adjudicate upon the demands.

4. The Bank by their written statement resist the Union's claim. According to them their stand that the Union being a composite one is not entitled to espouse the cause of the Workmen is sound in law, and as such they were justified in declining to negotiate any settlement with them. They also challenge the competency of the references on the ground that they cover Officers as well, who are not 'Workmen' within the meaning of the Act.

5. The parties closed their cases without leading oral evidence. They have however filed documents and these have been exhibited by consent. I find substance in both contentions of the Bank. The Union has not produced the decision of the Jaipur Labour Court, holding that all Officers of a Gramin Bank are Workmen. Ex facie Officers employed in mainly managerial or administrative capacity of employees in supervisory capacity drawing wages more than Rs. 1,600 p.m. will not attract the definition of Workmen as defined in section 2(s) of the Act. The charter of demands leaves no doubt that quite a few demands relate to Officers also. The Union which represents all employees of the Bank is obviously a composite trade union. The stand taken by Bank that they would not discuss demands relating to Workmen with such a Union, cannot be said to be unjustified. There is a notification No. F. 9/13/84-RRB dated 25th November, 1988 issued by the Government of India in the Ministry of Finance, that there can be no recognition of composite Unions of Workers and Officers by Regional Rural Banks (Ex. M-1). The Andhra Pradesh High Court has upheld the validity of this notification and the stand that Gramin Banks are within their right to refuse to recognise such a composite union

as effective representatives of Workmen : 1990 LAB. I.C. 606 Sri Visakha, Giameena Bank Employees Association, Srikantham V Government of India. Propriety apart, the Bank was not legally obliged to participate in the conciliation proceedings, if in its discretion, it did not want to do so. Much less was it obliged to enter into settlement with the Union. There is also substance in the contention of the Bank that the dispute referred to the Tribunal is not an Industrial Dispute, because Officers (who are not Workmen) are also parties to it. The references are bad on this count also.

6. It is not necessary to record findings on the Bank's further contention that the Union has not properly authorised its Office bearers to prosecute the reference, because of the above findings on merit.

7. In the result I hold that the action of the Bank adverted to in the two references cannot be said to be unsatisfactory. The Union is not entitled to any relief. It will not be proper for me to adjudicate upon the charter of the Union demands in absence of proper reference. Such adjudication will be clearly beyond the legitimate scope of the present references. I decline to undertake that exercise here. Parties to bear their costs, as incurred Award accordingly.

S. N. KHATRI, Presiding Officer

[No. I-12011/18/89-IR(Bank-I) I-12012/47/89-IR(Bank-I)]

S. C. SHARMA, Desk Officer

नई दिल्ली, 2 जनवरी, 1991

का आ 319—श्रीशोधिक विवाद प्रतिनिधिम, 1947 (1917 का) 14 की धारा 17 के अनुसार में, केन्द्रीय सरकार मेन्टल ऐरीफल बॉर्ड नियोजकों और उनके कामकारों के बीच, अनुदंद में नियोजित श्रीशोधिक विवाद में केन्द्रीय सरकार श्रीशोधिक प्रधिकरण नगर्नोर के पचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 31-12-90 को प्राप्त हुआ था।

New Delhi, the 2nd January, 1991

S.O. 218.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Bangalore as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Central Sericultural Research and Tigr. Instl. and their workmen, which was received by the Central Government on 31-12-90.

#### ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT AT BANGALORE

Dated 26th day of December 1990

#### PRESENT :

Shri M. B. Vishwanath, B.Sc., B.L.—Presiding Officer  
Central Reference No. 11/89

#### I PARTY

Shri Gavi & Smt. Arasamma Vs. The Director,  
C/o C.S.R.T.I. Worker's Union Central Sericultural  
Research and Training  
Institute,  
Laxmi Building,  
Opp. Town Hall,  
MYSORE.

#### II PARTY

The Director,  
Central Sericultural  
Research and Training  
Institute,  
Srirampura,  
MYSORE.

#### AWARD

In this reference, the Hon'ble Central Government (Ministry of Labour) has been pleased to refer the following dispute for adjudication as per Schedule vide its Order No. L-42011/66/87-D. II(B) dated NIL by exercising its powers under Section 10(1)(d) of the Industrial Disputes Act 1947.

#### POINT OF REFERENCE

Whether the action of the management of C.S.R.T.I. Mysore in not promoting Shri Gavi and Smt. Arasamma to the time scale cadre is justified? If not, what relief the workers concerned are entitled to?

2. Along with other cases, this case was fixed at Mysore Camp on 24-12-1990 to record evidence on merits.

3. On 24-12-1990, at Mysore Camp the learned counsel for the I party filed memo. According to the memo filed by the learned counsel both the members of the I party have since been promoted to time scale cadre. In the memo, in view of the fact that the two members of the I party have been given time scale, it is stated that the reference is not pressed.

4. Since a memo has been filed not pressing the reference, the reference is rejected. Accordingly an award is passed rejecting the reference.

(Dictated to the Stenographer, taken down by her, got typed and corrected by me.)

M. B. VISHWANATH, Presiding Officer

Dt. 26-12-90.

[No. L-42011/66/87-D.II(B)(Pt.)]

नई दिल्ली, 3 जनवरी, 1991

का आ. 219—श्रीशोधिक विवाद प्रतिनिधिम, 1947 (1947 का 11) की धारा 17 के अनुसार में, केन्द्रीय सरकार बैरेटर्न रेलवे के प्रबंधनकार के गवर्नर नियोजकों और उनके कर्मकारों के बीच, अनुदंद में नियोजित श्रीशोधिक विवाद में केन्द्रीय सरकार श्रीशोधिक प्रधिकरण न 1. वर्षाई के पचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 2-1-91 को प्राप्त हुआ था।

New Delhi, the 3rd January, 1991

S.O. 219.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, No. 1 Bombay as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Western Railway and their workmen, which was received by the Central Government on 2-1-91.

#### ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1 AT BOMBAY

(Presiding Officer, Justice S. N. Khatri)

Reference No. CGI-71 of 1990

#### PARTIES :

Employers in relation to the Management of Western Railway, Bombay.

#### AND

Their Workmen

#### APPEARANCES :

For the Management.—Shri N. H. Raote, Office Superintendent.

For the Workmen.—No appearance.

INDUSTRY : Railways

STATE : Bombay.

Bombay, dated 21st December, 1991

#### AWARD

The Central Government has referred the following industrial dispute to this Tribunal for adjudication under section 10 of the Industrial Disputes Act, 1947.

"Whether the action of the employer of Western Railway I. E. CAMPL (P&L) now CWM, Parcal in effecting malafide actions viz. transferring Shri Mohammed Rafik, Bunklow peon, is justified? If not, what relief the concerned workman is entitled to?"

2. The Workman has remained absent on 29-10-90, 28-11-90 and again today and not cared to file his statement of claim, although notice for each date has been duly served on him, with a warning that the reference will be disposed of in his absence, if he does not turn up. It appears he is not interested in pursuing the reference. Eventually I dispose of it in his default without any orders as to merit or Costs. Award accordingly.

S. N. KHATRI, Presiding Officer  
(No. L-41012/132/89-IR(D.U) Pt.))

का.आ. 220—प्रौद्योगिक विवाद अधिनियम, 1917 (1947 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार वैटर्नेल्यू के प्रबंधन के मध्य नियोजकों और उनके कर्मकारों के बीच, अन्यथा में निर्दिष्ट प्रौद्योगिक विवाद में केन्द्रीय सरकार, प्रौद्योगिक अधिकरण ने 1 अक्टूबर के पंचपट को प्रकाशित करना है, जो केन्द्रीय सरकार को 2-1-91 को प्राप्त हुआ था।

S.O. 220.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, No. 1 Bombay as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Western Railway and their workmen, which was received by the Central Government on 2-1-91.

#### ANNEXURE

#### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1 AT BOMBAY

(Presiding Officer, Justice S. N. Khatri)  
Reference No. CGIT-77 of 1990

#### PARTIES :

Employers in relation to the Management of Western Railways, Bombay.

AND

Their Workmen

#### APPEARANCES :

For the Management.—Shri N. M. Raote, Office Superintendent.

For the Workmen.—No appearance.

INDUSTRY : Railways

STATE : Bombay.

Bombay, dated 21st December, 1990

#### AWARD

The Central Government has referred the following industrial dispute to this Tribunal for adjudication under section 10 of the Industrial Dispute Act, 1947.

"Whether the action of the employer of Western Railway in terminating the lien of Shri Venugopal Patel from Rajkot Division and deferring him from promoting to the post of Chief Draft Man is justified? If not, what relief the concerned workman is entitled to?"

2. Both sides have remained absent on 27-11-90 and again today, in spite of being served with notices for each date that the reference will be decided in default of the absent party or parties. The Workman has not even filed his statement of claim. In the circumstances, I dispose of

the reference in default of both sides without any orders as to merits or costs. Award accordingly.

S. N. KHATRI, Presiding Officer  
[No. L-41012/3/90-IR(D.U) Pt.])  
K. V. B. UNNY, Desk Officer

नई दिल्ली, 1 जनवरी, 1991

का.आ. 221—प्रौद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारतीय खाल नियम के प्रबंधन के मध्य नियोजकों और उनके कर्मकारों के बीच, अन्यथा में निर्दिष्ट प्रौद्योगिक विवाद में केन्द्रीय सरकार, प्रौद्योगिक अधिकरण ने 1 अक्टूबर के पंचपट को प्रकाशित करना है, जो केन्द्रीय सरकार को 31-12-90 को प्राप्त हुआ था।

New Delhi, the 4th January, 1991

S.O. 221.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Dhanbad as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Food Corporation of India and their workmen, which was received by the Central Government on the 31-12-90.

#### ANNEXURE

#### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, DHANBAD

In the matter of a reference under section 10(1) (d) of the Industrial Disputes Act, 1947.

Reference No. 84 of 1989.

#### PARTIES :

Employers in relation to the management of Food Corporation of India.

AND

Their Workmen

#### PRESENT :

Shri S. K. Mitra,  
Presiding Officer.

#### APPEARANCES :

For the Employers.—Shri J. P. Singh, Advocate.

For the Workmen.—Shri D. K. Verma, Advocate.

STATE : Bihar.

INDUSTRY : Coal.

Dated, the 17th December, 1990

#### AWARD

By Order No. L-42012/39/88-D.II(B)/D-IV(B) dated the 1st November, 1988, the Central Government in the Ministry of Labour, has, in exercise of the powers conferred by clause (d) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947, referred the following dispute for adjudication to this Tribunal :

"Whether the action of the management of Food Corporation of India in dismissing Shri Sachidanand Singh from service w.c.f. 26-11-84 is justified? If not to what relief the workmen concerned is entitled?"

2. The reference of the present industrial dispute was received in the office of this Tribunal on 4-7-89. In response to the notice issued by this Tribunal to the parties, the management of Food Corporation of India appealed through its Advocate Shri J. P. Singh and the concerned workman, Sachidanand Singh, through his Advocate Shri D. K. Verma,

Shri D. K. Verma, Advocate, took several adjournments for filing written statement in this dispute, but ultimately he submitted that he did not have any instruction from the concerned workman, his client.

In the circumstance, I have reason to believe that the concerned workman is not interested in pursuing the present industrial dispute. Hence, I am constrained to pass a 'no dispute' award in the present industrial dispute.

This is my award.

S. K. MITRA, Presiding Officer  
[No. L-42012/39/88-D.II(B)|D.IV(B)]  
RAJA LAL, Desk Officer

नई दिल्ली, 4 जनवरी, 1991

का आ. 222—मीडोगिक विवाद प्रधिनियम, 1947 (1947 का 14) की धारा 17 के प्रत्यरूप में, केंद्रीय सरकार मैसर्स भारत कोकिं फॉल लि. की बेनीडीह कोलवरी के प्रबंधातंत्र के संबंध नियोजकों और उनके कर्मकारों के बीच, पनुरेख में निश्चित मीडोगिक विवाद में केंद्रीय सरकार मीडोगिक प्रधिकरण, सं. 1 धनबाद के पचपट की प्रकाशित करती है, जो केंद्रीय सरकार को 26-12-90 को प्राप्त हुआ था।

New Delhi, the 4th January, 1991

S.O. 222.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal No. 1 Dhanbad as shown in the Annexure in the industrial dispute to between the employers in relation to the management of Benidih Colliery of M/s. Bharat Coking Coal Limited and their workmen, which was received by the Central Government on 26-12-90.

#### ANNEXURE

#### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. I, DHANBAD

In the matter of a reference under section 10(1)(d) of the Industrial Disputes Act, 1947

Reference No. 157 of 1988

#### PARTIES :

Employers in relation to the management of Benidih Colliery of M/s. B.C.C. Ltd. (Block-II Area).  
AND

Their Workmen.

#### PRESENT :

Shri S. K. Mitra, Presiding Officer.

#### APPEARANCES :

For the Employers—Shri B. Joshi, Advocate.

For the Workmen—Shri B. K. Ghosh, Member Executive Committee, Janta Mazdoor Sangh

STATE : Bihar

INDUSTRY : Coal

Dated, the 18th December, 1990

#### AWARD

By Order No. L-20012/33/88-D.III (A), dated, the 29th November, 1988, the Central Government in the Ministry of Labour, has in exercise the powers conferred by clause (d) of sub-section (1) and sub-section (2-A) of Section 10 of the Industrial Disputes Act, 1947, referred the following dispute for adjudication to this Tribunal :

"Whether the action of the management of Benidih Colliery of Block-II Area P.O. Nawagarh, Dist. Dhanbad in dismissing Shri Rameshwar Hazam, Line Mistry from service from 29-1-1987 is justified? If not, to what relief the workman is entitled?"

2. The case of the management of Benidih Colliery of Block-II Area of M/s. B.C.C. Ltd. as disclosed in the written statement, details apart, is as follows :

The present dispute is not legally maintainable. The concerned workman, Rameshwar Hazam was on duty on 10-9-86 as Line Mistry in the shift inside the mine. He got his attendance marked, went off down the mine and was whiling away his time at No. 3 level of the mine. Sri S. K. Choudhury, Senior Overman, examined haulage line, got the same cleared and advised the concerned workmen to inform about the condition of the line to the trammer so that they could resume their duties. It is the duty of the line Mistry to remove defects in the haulage line, to give the report of rectification of defects to the trammers and overman so that hauling operation can be carried on. The overman remains incharge of control, directions and supervision of the mining district under his charge during his shift and all persons employed inside the mine are bound to carry out all instructions given to them relating to different mining operations connected with production, transportation, safety and all incidental matters connected with various mining operations. Anyway, the concerned workman refused to carry out instruction of the overman and did not proceed to inform the trammers to commence the transportation operation. Finding the adamant attitude of the concerned workman and his disobedience of lawful orders of the controlling mine official, the overman asked him to go out of the mine as per statutory authority given to him under the Coal Mines Regulations 1957. The concerned workman bore grudge against the overman, Sri S. K. Choudhury pushed and threatened him and thereafter left the mine. He was laying in wait for Sri Choudhury on the surface at a convenient place and when Sri Choudhury came to the surface in connection with tub supply and other matters, he attacked him, abused and threatened him and also assaulted him causing injuries on the head. The management issued a chargesheet on 12-9-86 to him for commission of misconduct of threatening, abusing and assaulting a superior officer and called an explanation from him. He submitted his reply to the chargesheet on 17-9-86 denying the charge. His explanation was found unsatisfactory and the management decided to hold domestic enquiry in which Sri S. P. Singh, Dy. Personnel Manager was appointed Enquiry Officer. Sri A. K. Sinha, Asstt. Colliery Manager, represented the management, Sri Joginder Prasad Sinha acted as Co-worker of the concerned workman in the enquiry and Sri S. P. Singh held the departmental enquiry in accordance with the principles of natural justice. The concerned workman was given full opportunity to cross-examine the management's witnesses, to give his own statement and to produce his witness. The Enquiry was conducted fairly and properly and the Enquiry Officer submitted his report finding the concerned workman guilty of the charge. The competent authority examined the enquiry proceeding, the enquiry report and all connected papers and after obtaining approval from the G.M.C.M.E. dismissed him from service by letter dated 27-1-86.

3. The case of the concerned workman, as appearing from the written statement submitted on his behalf, by the sponsoring union, Janta Mazdoor Sangh, briefly stated, is as follows :

The concerned workman was charge-sheeted on 12-9-86 under clause 17(i)(r) of the Model Standing Orders with order of suspension on the allegation that on 19-9-86 he threatened, abused and assaulted Sri S. K. Choudhury, Senior Overman near the incline mouth where the workman had been waiting for him. It is alleged that as a result of assault with lumps of coal/stone the Senior Overman received serious injuries on his head. The concerned workman submitted his explanation to

the charge sheet on 17-9-86, but that was found unsatisfactory by the management. Accordingly, a domestic enquiry was held, but none of the management's witnesses corroborated Sri Choudhary in respect of the allegation made by the latter. The statement of Dwarka Rewani has been described by the Enquiry Officer as hearsay-evidence. Sri R. B. Sahani who had been deputed to work elsewhere by Sri Choudhary cannot be an eyewitness and his statement regarding the incident is only hearsay evidence. Sri Dwarka Rewani was declared as hostile witness by the management's representative. The evidence of Durga Yadav has been held to be hearsay evidence by the Enquiry Officer. The evidence of Amit Mahto (M.W. 5) Miner/Loader does not corroborate the alleged incident of assault by the concerned workman. Shri A. K. Sinha, A.C.M. and Anand Ansari were not examined before the Enquiry Officer, although Sri S. K. Choudhary claimed to have been saved by them. The alleged medical certificate referred to by the Enquiry Officer does not appear to have been presented as an exhibit and the Medical Officer of the Central Hospital, Raghmara, who allegedly treated the injured Sr. Overman, Sri S. K. Choudhary, was not examined before the Enquiry Officer. The concerned workman did not get any opportunity to cross-examine him. G.M./C.M.E. of the Area did not peruse the case but approved the punishment of dismissal on the recommendation of the Dy. C.M.F. Benidih Colliery and the Dy. P.M., Block-II Area without applying his mind to the case. In the context of facts and circumstances, the punishment of dismissal meted out to the concerned workman on the basis of the perverse finding of the Enquiry Officer is illegal, unjustified and vindictive. Hence, the sponsoring union has prayed that the concerned workman be reinstated in service with full back wages.

4. In rejoinder to the written statement of the sponsoring union, the management has asserted that the statement of facts relating to the evidence at the time of domestic enquiry are all matter of record. The medical prescription was filed by the management's representative and that was taken on record on admission by the concerned workman. In departmental enquiry it is not necessary to examine the Doctor to find out the extent of injury for deciding the application of specific section of I.P.C. So far as misconduct is concerned, assault is sufficient and injury is irrelevant. The concerned workman has accepted the fact that Sri S. K. Choudhary received injury and did not challenge the medical report. Hence, there was no need for examination of the Medical Officer who treated Sri Choudhary. It has been asserted by the management that the finding of the Enquiry Officer is not perverse in that the C.M.E. of the Area did not apply his mind before granting approval for dismissal. In the circumstances, the management has submitted that the dismissal of the concerned workman from service for commission of misconduct is legal, bonafides and justified.

5. In rejoinder to the written statement of the management, the sponsoring union has asserted that the line miscreant is concerned with the defect in the lay-out of the line and any dislocation of the same. The concerned workman as Line Mistry performed his duty sincerely and there was no disobedience of any lawful order of superior. In the instant case the overman exercised his authority under the Coal Mines Regulation 1951 arbitrarily and motivately. The union has further denied that the concerned workman bore any grudge against Sri S. K. Choudhary and he left the mine helplessly and there was no occasion to abuse, threaten or assault Sri Choudhary. It has been alleged that the concerned workman is a victim of victimisation on account of his membership of and support for Janta Mazdoor Sangh.

6. At the instance of the management the fairness and propriety of the domestic enquiry was considered as preliminary issue. In the course of hearing the preliminary issue, the management examined Sri S. P. Singh, Enquiry Officer and laid in evidence some items of documents which have been marked Exts. M-1 to M-6. Besides, the management produced the original medical report marked Ext. 'Cha'

and original letter of complaint of Sri S. K. Choudhary, Sr. Overman marked Ext. 'Chha' in the domestic enquiry. By order dated 10-10-1990 it was held that the domestic enquiry was conducted fairly and properly and thereafter the matter was heard on merits.

7. Admittedly, Rameshwar Hazam, the concerned workman, was working as Line Mistry and Sri S. K. Choudhary as Senior Overman on the date of occurrence on 10-9-86 in Benidih Colliery of M/s. B.C.C. Ltd. It is also the undisputed position that the concerned workman was deployed for duty on that date in the 2nd shift at Khas Jairahid Section of the said Colliery while Sri S. K. Choudhary was also deployed in the same shift at the said section of the Colliery.

Shri S. K. Choudhary submitted a written complaint to the management disclosing that it was raining from 4 p.m. on 10-9-86 as a result of which 2nd and 3rd level haulage road was blocked and he was getting haulage road cleared which was over by 7 p.m. and he asked the concerned workman, sitting in front of level No. 3, to go and inform trammers that the line had been cleared and tramming should be started. But the concerned workman refused to carry out his order on the plea that it was not his duty to carry any message. Thereafter Sri Choudhary asked him to leave the mine whereupon the concerned workman pushed and threatened him and thereafter when he was going to the surface of the mine, the concerned workman who was waiting near incline mouth saw him and started abusing him and held out threat that he would kill him. Thereafter the concerned workman picked up a lump of coal and threw at him causing bleeding injury and that he could not keep his balance and his helmet fell down from his head and thereupon the concerned workman picked up another lump of coal and hurled it at him hitting his head causing injury and that he shouted out of fear whereupon the concerned workman lurched towards him with hammer yelling that he would kill him ('Choudhary'), but in the meantime Anand Ansari came and he tried to catch hold of the concerned workman. By the time Sri R. B. Sahani, Overman Dwarka Rewani and A. K. Sinha, Asstt. Colliery Manager, reached the spot and saw the incident and setting his condition to be serious. Sri Anand Ansari, A. K. Sinha, R. B. Sahani and Dwarka Rewani brought him to the surface. He submitted complaint to the management with a prayer for taking necessary action. Close on the heels of the complaint of the Sri Choudhary, the management issued a chargesheet to the concerned workman narrating the incident as disclosed in the complaint of Sri Choudhary and arranging him on charge of misconduct under para 17(i) of the Model Standing Order for having threatened, abused and assaulted physically his superior (Ext. M-1). In reply to the chargesheet, the concerned workman denied having assaulted Sri Choudhary and stated that Sri Choudhary had chapral on his feet but had no helmet on his head and that he had a fall whereupon the concerned workman reached the spot to lift Sri Choudhary, but false allegations were made against him. The persons named in the chargesheet who allegedly brought Sri Choudhary out of the mine were not there but on the surface and only line mistrys and line mazdoors were there. He has further alleged that since he was an active member of Janta Mazdoor Sangh, he had been harassed by this false allegation. (Ext. M-2).

The explanation submitted by the concerned workman was not found satisfactory by the management and it decided to hold domestic enquiry. Sri S. P. Singh, Dy. Personnel Manager in Block-II Project held the domestic enquiry while Sri A. K. Sinha, Asstt. Manager of the Colliery appointed and already is management's representative. In the course of domestic enquiry the management examined—(i) A. K. Sinha, Asstt. Manager, (ii) the complainant S. K. Choudhary, Sr. Overman, (iii) R. B. Sahani, Overman, (iv) Dwarka Rewani, Dresser, (v) Durga Yadav, Munshi and (vi) Amit Mahto, miner/loader working as Explosive Carrier. Besides, Dr. S. P. Mukhonadhyay, Senior Medical Officer of Benidih Colliery was examined at the instance of the Enquiry Officer to explain the injury report-cum-prescription.

The concerned workman made a statement in support of his defence, but did not examine any independent witness.

In his statement before the Enquiry Officer, the complainant Sri S. K. Choudhary narrated the occurrence in corroboration of his letter of complaint in essential details. It appears that he made certain addition in his statement before the Enquiry Officer by stating that the concerned workman himself reported to him about the jamming of the line and that he asked the concerned workman to get the jamming cleaned with the help of two persons at his disposal, whereupon the concerned workman represented to him that the job was too much for two persons and he (Senior Overman) assured him to provide additional helpers. Likewise, he gave the reason for his going to the surface of the mine by stating that fans were not working and so he proposed to go to the surface of the mine to enquire about electricity. Thereafter narrating the incident he stated before the Enquiry Officer that when the concerned workman rushed towards him to assault him with guage and hammer, he shouted for help and Dwarika Rawani, Dresser, reached there and caught the concerned workman and pushed him away and shouted that the incharge was assaulted. He further stated that hearing his shout the Asstt. Colliery Manager, Sri A. K. Sinha, reached there, Anand Ansari, Explosive Carrier, Sahani, Amrit Mahato, Driller also reached there and that he was helped by Dwarika Rawani to go out of the mine. He further stated that Dr. S. P. Mukhopadhyay brought him to the Colliery hospital and gave him first aid and sent him to Baghunara Regional Hospital at Baghunara. Thus it appears that there were some omission in his letter of complaint which Sri Choudhary narrated in his statement before the Enquiry Officer, but these omissions are not contradiction. Some inconsistencies are observed as to the names of the persons who came to his rescue and who brought him on the surface of the mine when his letter of complaint and statement before the Enquiry Officer are considered. But these inconsistencies are of trivial in nature. Dwarika Rawani, of course did not state anything about the occurrence and he was declared hostile at the instance of the management. Darga Yadav stated that there was a noise from the incline mouth that the concerned workman was beating the incharge Babu, and hearing the noise Sinha Saheb went ahead and he followed him. He further stated that the concerned workman came up with his hammer and materials and was threatening that he would kill Sri Choudhary. Amrit Mahato, Explosive Carrier, stated that when the line was cleared Choudhary Babu asked the concerned workman to report about the clearance of the line to the hookman by going down. Thereafter the concerned workman and Choudhary Babu discussed for sometime and thereafter when Choudhary Babu went up, he heard noise and on coming to the spot he saw that the head of Choudhary Babu was bleding. Thus, it is seen that this witness reached the spot immediately after the occurrence but the evidence of Dargha Yadav is simply hear-say evidence. Sri R. B. Sahani, Overman, has narrated the occurrence and stated that the concerned workman threatened and assaulted Sri S. K. Choudhary. He stated that the concerned workman assaulted Sri Choudhary with a piece of stone which was not at all the weapon of assault as per evidence of Sri Choudhary. Anyway, the injury report discloses that there were injuries on the scalp and back of the complainant Sri S. K. Choudhary. Thus, the injury report corroborates the fact that Sri Choudhary was injured and as per the testimony of Sri Choudhary, he was injured as a result of assault on his back and head by the concerned workman.

8. The concerned workman took the defence in his explanation to the chargesheet that Sri Choudhary was wearing chappal and he had fall and sustained injury. During the domestic enquiry he changed his front about how Sri Choudhary came by his injury. He stated that Choudhary Babu asked him to go down the mine to give information to the looseman to start work after the line was cleared but he expressed his inability on the ground that it was difficult for him to move up and down with so much materials on his person. Thereafter, according to him, Sri Choudhary Babu asked him to go up and while he was doing so Choudhary Babu pulled his napkin from his shoulder and he fell down on the ground and Choudhary Babu also fell down on him. His narration of the occurrence does not explain as to how Sri S. K. Choudhary came by his injury.

9. Upon consideration of the evidence on record, I come

to the conclusion that the Enquiry Officer was justified in holding the concerned workman guilty of misconduct of threatening and assaulting Sri S. K. Choudhary a co-worker. I also consider that regard being had to the gravity of the offence—threatening and assaulting a superior co-worker, I also hold that the management's action of punishment of dismissal of the concerned workman from service is justified.

10. Accordingly the following award is rendered—

the action of the management of Benidih Colliery of Block-II Area, P.O. Nawagarh, Distt. Dhanbad, in dismissing Sri Rameshwar Hazam, Line Mistry from service from 29-1-1987 is justified.

In the circumstances of the case, I award no cost.

S. K. MITRA, Presiding Officer

[No. L-20012/133/88-D.III (A) Coal-I]

नई दिल्ली, 7 जनवरी, 1991

का.पा. 223.—श्रीधोगिक विवाद प्रतिनिधित्व, 1947 (1947 का 14) वो धारा 17 के प्रत्यारूप में, केन्द्रीय सरकार, मैसर्स भारत कोकिंग काल लि. को रामकनाली कोकिंग के प्रबंधताल से सम्बद्ध नियोजको मोर उनके कर्मकारों के बीच, अनुबंध में निश्चित श्रीधोगिक विवाद में केन्द्रीय सरकार श्रीधोगिक प्रतिनिधित्व 1 अन्वाद के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 31-12-90 को प्राप्त हुआ था।

New Delhi, the 7th January, 1991

S.O. 223.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal No. 1 Dhanbad as shown in the Annexure in the industrial dispute between the employers in relation to the management of Ramkanali Colliery of M/s. Bharat Coking Coal Limited and their workmen which was received by the Central Government on 31-12-1990.

#### ANNEXURE

#### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, DHANBAD

In the matters of a reference under Section 10(1)(d) of the Industrial Disputes Act, 1947  
Reference No. 42 of 1990

#### PARTIES :

Employers in relation to the management of Ramkanali Colliery of M/s. B.C.C. Ltd.

AND

Their Workmen.

#### PRESENT :

Shri S. K. Mitra, Presiding Officer.

#### APPEARANCES :

For the Employers—Shri B. Joshi, Advocate.

For the Workmen—Shri D. Mukherjee, Advocate (At the time of final hearing—none).

STATE : Bihar

INDUSTRY : Coal

dated, the 17th December, 1990

#### AWARD

By Order No. L-20012/247/89-I.R. (Coal-I), dated, the 12th February, 1990, the Central Government in the Ministry of Labour, has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2-A) of the Industrial Disputes Act, 1947, referred the following dispute for adjudication to this Tribunal :

"Whether the management of M/s. BCCL in relation to Ramkanali Colliery in Area No. IV is justified

in denying employment to the dependent Smt. Kapurva Bhuini wife of Late Jagdish Bhuinya, Ex-Miner/Loader who died on 29-1-1987 / is not, to what relief Smt. Kapurva Bhuini is entitled to ?"

2. The order of reference, which was received in the office of this Journal on 20-2-1990, discloses that the management of M/s. B.C.C. Ltd. in relation to Ramkanali Colony in Area No. IV and the General Secretary, Dalit Mazdoor Sangh Chatabab, Laldhura, P.O. Malkera, Dist. Dhanbad are parties to it. One Sri Karu Ram, General Secretary, Dalit Mazdoor Sangh submitted written statement on behalf of the concerned workman Smt. Kapurva Bhuini, wife of late Jagdish Bhuinya, Ex-Miner/Loader who died on 29-1-1987. The written statement submitted by the General Secretary, Dalit Mazdoor Sangh discloses that Rashtriya Colony Mazdoor Sangh challenged the illegal and arbitrary order of the management dismissing Jagdish Bhuinya from service with effect from 28-7-1986 and that the management, appreciating the legal position, agreed to reinstate him in service after entering into a settlement on 19-1-87. It is alleged that although Shri Jagdish Bhuinya appeared before the management's Medical Board, he was not allowed to join his duty and he died on 29-1-1987. Consequent upon his death, his wife Smt. Kapurva Bhuini approached the management for providing her employment as per N.C.W.A. III and IV. But the anti-labour management did not provide her employment. In the circumstances, the Union was constrained to raise the present industrial dispute. It has been asserted that the action of the management in denying employment to Smt. Kapurva Bhuini is illegal, arbitrary and unjustified. The Union has prayed that the management be directed to provide employment to the concerned worker, Smt. Kapurva Bhuini with retrospective effect and pay her arrears of wages.

3. The management appeared through its Advocate, Shri B. Joshi, but did not file written statement. On 1-11-1990 a petition of compromise was filed signed by the representative of the management and the General Secretary of Dalit Mazdoor Sangh, Shri Karu Ram and the concerned workman. But since Dalit Mazdoor Sangh is not a party to the present reference notice was issued upon the signatories to the petition of compromise directing both of them to appear on 28-11-90 and to clarify the position. Shri B. Joshi, learned Advocate for the management appeared in response to the notice, but the General Secretary, Dalit Mazdoor Sangh or the concerned worker did not. In the circumstances Shri Joshi submitted before me that since the management had agreed to provide employment to the concerned worker Smt. Kapurva Bhuini on certain conditions, the present reference may be disposed of by passing 'no dispute' award and the petition of compromise may be kept on file.

4. Since neither the concerned worker nor the General Secretary, Dalit Mazdoor Sangh has appeared before me to clarify the position, I have reason to believe that none of them is interested in pursuing the present industrial dispute.

In the circumstances, I am constrained to pass 'no dispute' award in this case. The petition of compromise be kept on record.

This is my award.

S. K. MITRA Presiding Officer  
[No. L-200.2/247/89-IR (Coal-I)]

का. शा. 224 : भौद्योगिक विवाद, अधिनियम, 1947 (1947 का 14) का शारा 17 के अनुसार में केन्द्रीय सरकार, मर्सेस सेट्रल कोल फिल्ड्स लि. की डोरी (के) कोलयरी के प्रबंधन से सम्बद्ध लियोजनों द्वारा उनके कर्मकारों की ओर, अनुबंध में निर्धिष्ट भौद्योगिक विवाद में केन्द्रीय सरकार भौद्योगिक अधिकारण (सं. 1) घनवाद के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 31-12-90 को प्राप्त हुआ था।

S.O. 224.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal No. 1 Dhanbad as shown in the Annexure to the industrial dispute between the employers in relation to the management of Dhori (K) Colliery of M/s. Central Coalfields Limited and their workmen which was received by the Central Government on 31-12-1990.

#### ANNEXURE

#### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, DHANBAD.

In the matter of a reference under Section 10(1)(d) of the Industrial Disputes Act, 1947.

Reference No. 92 of 1988

#### PARTIES :

Employers in relation to the management of Dhori (K) Colliery of M/s. Central Coalfields Limited,

AND

Their workmen

#### PRESENT :

Shri S. K. Mitra, Presiding Officer.

#### APPEARANCES :

On behalf of the employers—Shri R. S. Murthy, Advocate.

On behalf of the workmen—Shri D. Mukherjee, Secretary, Bihar Colliery Kamgar Union.

STATE : Bihar.

INDUSTRY : Coal.

Dhanbad, the 14th December, 1990

#### AWARD

By Order No. L-24012/196/87-D-IV(B), dated, the 18th July, 1988, the Central Government in the Ministry of Labour, has in exercise of the powers conferred by clause (d) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947 referred the following dispute for adjudication to this Tribunal :—

"Whether the action of the management of Dhori Colliery of M/s. Central Coalfields Ltd. in terminating the services of Shri Tribhuban, piece rated worker is justified ? If not, to what relief the workman concerned is entitled ?"

The case of the employers in relation to the management of Dhori Colliery of M/s. Central Coalfields Ltd., as disclosed in their Written Statement, bereft of details, is as follows :—

The present reference is bad in law and as such not maintainable. The substantive case of the management is that Shri Tribhuban was provided employment by the management as piece rated workman in Chapri incline of Dhori (K) Colliery with effect from 13-1-1984 in terms of the provision of para 10.4.2 of NCWA-II as he claimed that he was the brother of late Butan Lohar, ex-piece rated worker of Dhori Colliery. It later came to the knowledge of the management that in July, 1984 Shri Tribhuban had fraudulently sneaked in the employment of the management by giving false information regarding his name, father's name, home address and relation with late Shri Butan Lohar, ex-piece rated worker of Dhori colliery. On receipt of the above information the Project Officer/Agent Dhori (K) Colliery issued chargesheet to the concerned workman spelling out that he entered into the employment of the management fraudulently by providing false information regarding his age, father's name, home address and relation with Butan Lohar.

Getting wind about the fact that the management was going to issue him with chargesheet he absented himself from duty with effect from 9-7-84 without permission and satisfactorily cause. He v.13 issued a fresh chargesheet dated

12/15-10-84 for committing misconduct by continuously absenting from duty without permission and without satisfactory cause for more than 10 days. The above chargesheet was sent to his home address but that was returned with the remarks that the addressee was not residing there. Thereafter the management waited for long time and ultimately by a letter dated 7-10-85 the Agent/Project Officer, Dhanbad coker informed the concerned workman that since he had not submitted his explanation to the chargesheet and resumed his duty, it was presumed that he was not interested in continuing in service of the management. Accordingly his services were terminated with immediate effect.

The case of the concerned workman as disclosed by the Bihar Colliery Rengar Union in the written statement details apart is as follows :—

The concerned workman was originally appointed on 13-1-84 as a permanent workman against a permanent vacancy. He had been continuously working since 13-1-84 till he was stopped from duty on 9-7-84. The management stopped him from duty without assigning any reason. He represented to the management orally and also in writing against arbitrary and illegal stoppage of work but without any effect. The concerned workman sent a letter under Certificate of posting stating therein about the illegal stoppage of work with a request to allow him to resume duty but the management did not find any time to give reply. Despite his representation before the management for allowing him to resume duty nothing came out of such representation. It is alleged that the local management is very much biased against Bina Colliery Kumgar Union and its members. It is further alleged that no chargesheet was issued to him nor any notice directing him to appear before the enquiry officer was received by him. Seeing no alternative he raised an industrial dispute before the ALC(C) Hazaribagh through his union. The management took a plea before the Conciliation Officer that the concerned workman was chargedsheeted for absenting from duty unauthorisedly and so his services were terminated. The punishment of stoppage of service without assigning any reason was too harsh and disproportionate to the alleged offence. The Govt. of India was pleased to refer this dispute for adjudication before this Tribunal.

In the rejoinder to the Written Statement parties arrayed have struck to the respective contention as revealed in their respective Written Statement.

The case was slated for hearing on 3-12-90 Shri D. Mukherjee, authorised representative of the union submitted at the time of hearing that since he had no instructions, it was not possible for him to take any further steps. He further submitted that in the circumstances the Tribunal may be pleased to pass order according to law.

The record bears out that earlier Shri Mukherjee reported that the concerned workman had left the land of living. Even so the present industrial dispute could have been continued under the provision of Section 10(8) of the Industrial Disputes Act. But Shri Mukherjee, the authorised representative of the union is not interested in pursuing the dispute further. Accordingly I am constrained to pass "No dispute" Award in this case.

This is my Award.

S. K. MITRA, Presiding Officer.

[No. L-24012/196/87-D.IV(B)/IR(Coal-I)]

का.आ. 225.—प्रार्थोगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार, मै. भारत कोकिंग कॉल लिमिटेड की मोहुदा सामरी के प्रबंधताल से सम्बद्ध सियोक्सों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट प्रार्थोगिक विवाद में केन्द्रीय सरकार प्रार्थोगिक अधिकरण, (स. 1) धनबाद के पंचपट थों प्रकाशित करती है, जो केन्द्रीय सरकार की 31/12/90 को प्राप्त हुआ था।

S.O. 225.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal No. 1 Dhanbad as shown in the Annexure in the industrial dispute between the employers in relation to the management of Mohuda Washery of M/s. Bharat Coking Coal Limited and their workmen which was received by the Central Government on 31-12-90.

#### ANNEXURE

#### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, DHANBAD

In the matter of a reference under Section 10(1)  
(d) of the Industrial Disputes Act, 1947.

Reference No. 141 of 1988

#### PARTIES

Employers in relation to the management of  
Mohuda Washery of M/s. BCCL, P. O.  
Mohuda, Distt. Dhanbad.

AND

Their workmen

#### PRESENT

Shri S. K. Mitra, Presiding Officer

#### APPEARANCES

On behalf of the employers.—Shri B. Joshi,  
Advocate.

On behalf of the workmen.—Shri Surendra  
Prasad, Area Secretary, R.C.M.S Union.

STATE : Bihar. INDUSTRY : Coal.

Dated, the 14th December, 1990.

#### AWARD

By Order No. L-20012/125/88 D-III(A)/D-IV(A), dated, the 31st October, 1988, the Central Government in the Ministry of Labour, has, in exercise of the powers conferred by clause (d) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947 referred the following dispute for adjudication to this Tribunal :—

"Whether the action of the management of  
Mohuda Washery of M/s. BCCL, P. O.  
Mohuda, Distt. Dhanbad in denying regularisation of Sri Nitya Nand Sahay, Clerk  
Gr. I is justified ? If not, to what relief the  
workman is entitled and from what date ?"

The case of the management of Mohuda Washery of M/s. BCCL as disclosed in the Written Statement, details apart is as follows :—

The present reference is not legally maintainable. The concerned workman, Shri Nitya Nand Sahay was regularised as Grade-II clerk from 1-1-1983 and he was working as Grade-II Clerk at Moonidih Washery till his transfer to Mohuda Washery by letter dated 14-3-84. He was posted as Grade-II clerk at Mohuda Washery and was deputed to perform the jobs of Gr.-II Clerk. He has been continuing as Clerk Gr.-II and was

been performing the jobs of Clerk Grade-II throughout. His demand for regularisation as Clerk Grade-I is without any basis and hence his demand could not be acceded to. There exists several circumstances under which clerical personnel were promoted from time to time. The management took decision in 1984 to promote clerks who had stagnated in the same grade for more than 10 years from the date of nationalisation till 1983 although there was no sufficient post for higher grades. In such cases the promoted clerks continued to carry out the duties of lower grades as they were performing prior to their promotion. In some cases, certain clerks were promoted from lower grade to higher grade according to the seniority, either by the order of the management or as per certain awards but they were not placed in higher grades jobs due to unsuitability or non-availability of higher posts. They continued to work in the lower grades. Furthermore, there exists one or two grades for the same type of job and the Senior Clerks are given higher grades on promotion. The concerned workman is under confusion that Shri H. S. Choudhary was performing the job of Clerk Grade-I as because he was a clerk in the Grade-I at Mohuda Washery. The duties performed by Shri H. S. Choudhary and the concerned workman are duties of general clerks, who are essentially clerks Grade-II as per Wage Board Recommendation read with NCWAs. The same duties may be carried on by Clerk Grade-I with high degree of responsibility. It may so happen that the concerned workman may have to continue to do the same duty even after his promotion as Clerk Grade-I. Therefore the present case is not falling within the scope of regularisation. The issue of promotion will be finalised as per norms taking into consideration all Clerks in Grade-II of the entire area in one seniority list.

(The case of the sponsoring union Rashtriya Colliery Mazdoor Sangh, as disclosed in the Written Statement submitted on behalf of the concerned workman briefly stated is as follows :—

The concerned workman has been in employment in the BCCL at its Moonidih Coal Washery as Grade-II clerk. There exists a permanent sanctioned post of Clerk Grade-I at the Mohuda Washery of M/s. BCCL. By a letter dated 14-3-84 the concerned workman was transferred to Mohuda Washery from Moonidih Washery in replacement of Shri H. S. Choudhury of Mohuda Washery who was then in Clerical Grade-I. He has been doing all the jobs that were being done by his predecessor Shri H. S. Choudhary ever since his transfer to Mohuda Washery. As a matter of fact he stepped into the shoes of Shri H. S. Choudhary, Clerk Grade-I. Hence he is entitled to grade and scale of Shri Choudhary. The management did not give him the grade and scale although it is taking from him all the jobs of Clerk Grade-I. In such a predicament he made petition for his regularisation in Clerical Grade-I but that failed to evoke any desired result. Mutual negotiations were held between the union and the management but the dispute was ultimately referred to conciliation. The management took the plea in the conciliation proceeding that there is no job description of Clerk Grade-I and Clerk Grade-II in NCWA-II and NCWA-III. All clerks working in M/s. BCCL are in

ministerial cadre. M/s. BCCL has formulated a cadre scheme for its ministerial cadre wherein different jobs are prescribed for different grade clerks. Shri H. S. Choudhary was holding the post of Clerk Grade-I and the concerned workman has been performing the same duties as Shri Choudhary was performing before his transfer to Moonidih Coal Washery. However, the conciliation proceeding ended in failure and the appropriate Govt. has been pleased to refer the present industrial dispute for adjudication before this Tribunal. In the circumstances, the union has claimed that the concerned workman be regularised in Clerical Grade-I with effect from 14-3-84 and paid consequential monetary benefits.

In the rejoinder to the Written Statement of the sponsoring union the management has stated that the concerned workman was transferred from Mohuda Washery to Moonidih Coal Washery by letter dated 14-3-84, but it was incorrect to suggest that he was transferred in place of Shri H. S. Choudhary. The management has denied that the concerned workman had stepped into the shoes of Clerk Grade-I. He was transferred as Clerk Grade-II and performed most of the jobs that were performed by Shri H. S. Choudhary who was a Clerk Grade-I at that time. Shri H. S. Choudhary used to perform the jobs of clerk Grade-II and not of Clerk Grade-I. Admittedly Shri H. S. Choudhary was a Clerk Gr.-I but it is incorrect to suggest that he was holding any Grade-I post.

In the rejoinder to the Written Statement of the management the sponsoring union has asserted that the concerned workman was transferred to Mohuda Washery in replacement of Shri H. S. Choudhary, a Grade-I Clerk. The concerned workman has been doing jobs of Clerk Grade-I and hence his demand is for regularisation as Clerk Grade-I. The essential question is whether there is a sanctioned post for Clerk Grade-I in Mohuda Washery and Shri H. S. Choudhary was holding that post or not. It has been asserted that Shri H. S. Choudhury was holding the post of Clerk Gr.-II and since the concerned workman was deputed to that post in replacement of Shri H. S. Choudhury, he is entitled to regularise as Clerk Grade-I. Neither the Wage Board Recommendation nor the NCWAs described jobs to be performed by different grade clerks. It has been asserted that the management has been taking the job of Attendance Clerk which is the job of Clerk Grade-I from the concerned workman. Implementation Instruction No. 34 dated 17-7-84 of NCWA-III envisages that the clerks having passed matriculation and working in Grade-II for 3 years are entitled to be promoted as Clerk Grade-I. In terms of this instruction also the concerned workman is entitled to get promotion as Clerk Grade-I.

(The management has not laid any evidence, either oral or documentary in order to justify its action. On the other hand the sponsoring union has examined the concerned workman as WW-1 and laid in evidence a sheaf of documents which have been marked as Ext. W-1 to W-31.

Admittedly the concerned workman was regularised as Clerk Grade-II with effect from 1-1-83 and was working as such at Moonidih Coal Washery till

his transfer to Mohuda Washery by letter dated 14-3-84. The sponsoring Union has claimed that the concerned workman was transferred from Moonidih Coal Washery to Mohuda washery in the replacement of Shri H. S. Choudhury who was then working in Clerical Grade-I in Mohuda Washery. The management has contended that it is incorrect to suggest that the concerned workman was transferred in place of Shri H. S. Chaudhary. But the office order effecting the transfer of the concerned workman from Moonidih Coal Washery to Mohuda Washery belies the contention of the management. The transfer order reads as follows :—

“Shri N. N. Sahay Time Office Clerk is herenly transferred to Mohuda Washery Project in his present capacity and grade.

This transfer is with consultation with Project Officer, Mohuda, in replacement of Shri H. S. Choudhury who has been transferred from Mohuda to Moonidih Washery Project.”

Thus the hard evidence establishes the fact that the concerned workman was transferred to Mohuda Washery in replacement of Shri H. S. Choudhury who admittedly was working as Clerk Grade-II in Mohuda Washery.

It has been claimed by the union that the concerned workman has been doing all the jobs in Mohuda Washery that were being done by his predecessor Shri H. S. Choudhury from the date of his transfer to Mohuda Washery and as such he has stepped into the shoes of Shri H. S. Choudhury and is entitled to the Grade and scale of the later. The union has further asserted that there is a permanent sanctioned post of Clerk Grade-I at Mohuda Washery.

The contention of the management is that the duties performed by Shri H. S. Choudhury and the concerned workman are the duties of general clerk who are essentially in Clerk Grade-II as per Wage Board Recommendation read with NCWAs. Regarding the claim of the Union that there exists a post of Clerk Grade-I in Mohuda Washery, the reply of the management in its rejoinder seems to be evasive; the Management has simply stated that he statement of the workmen is vague and indefinite and there is nothing like same type post of Grade-I Clerk.

Upon the pleadings it is an irrefragible position that the concerned workman has been doing all the jobs in Mohuda Washery that were earlier being done by his predecessor Shri H. S. Choudhury ever since his transfer to Mohuda Washery. The contention of the management is that Shri Choudhury was performing the job of general clerk who is essentially in Clerical Grade-II. The management has catalogued some instances where workmen on lower clerical grade have been promoted to the higher clerical Grade because of the decision of the management flowing from stagnation in the same cadre over the year, in consideration of seniority and in view of certain Awards although all of them have not been vested with the duties of higher grade. But these circumstances, in my view, need not fall for consideration in the present industrial dispute. In the present case the sponsoring union

has laid the foundation of the claim of the workmen for clerical Grade-I on the basis that there exists a post of Clerk Grade-I in Mohuda Washery and that the concerned workman has been doing the same nature of work as was earlier being performed by his predecessor Shri H. S. Choudhury who was in Clerical Grade-I. I have already pointed out the answer of the management in regard to the claim of the sponsoring union about the existence of a post in Clerical Gr. I in Mohuda Washery. The management has not laid even a whit of evidence to indicate that there exists no post of Clerical Grade-I in Mohuda Washery on the other hand it appears from the evidence of the concerned workman that as per feasibility report that there exists 3 posts of Clerical Grade-I in Mohuda Washery although he could not show anything as to whether these posts have been sanctioned by the management or not. In his representation to the management Ext.W-3 the concerned workman has stated that he is eligible for regularisation to the post of Clerk Grade-I which is lying vacant in Mohuda Washery. He has also stated in his representation that “He has been looking after the job of Impresent, POL, Billing Sick Leave and other official job with entire satisfaction of the management”. The Project Officer of Mohuda Washery Project forwarded his representation to the higher authorities for consideration with his recommendation Ext. W-3/1. The statement of facts as made in the application Ext. W-3 by the concerned workman has not been doubted or disputed by the Project Officer. That being so, upon consideration record I am constrained to hold that there exists atleast one post of Clerk Grade-I in Mohuda Washery. Since Shri Choudhury was working as Clerk Grade-I in Mohuda Washery it is presumed that he was posted in that post as there is no evidence to the contrary.

Admittedly, the concerned workman has been performing the same nature of job as Shri Choudhury was performing before his transfer to Moonidih Coal Washery. There is no job description for clerical staff either in the Central Coal Wage Board Recommendation or in the NCWAs. Nomenclature, job description and categorisation of all employees issued by the JBCCI for the Coal Industry in the form of note indicate that Grade-I clerks do superior type of work which corresponds to the Upper Division Clerk and Grade-II clerks do more responsible work corresponding to the work of some Lower Division Clerk in Government Offices. But since there is no exhaustive job description for Clerical cadre either in Coal Wage Board Recommendation or NCWAs, exploration of the matter in this direction further on the basis of these recommendations and agreements is not worthwhile.

In terms of Implementation Instruction No. 34d/17-7-84 issued under NCWA-HI it appears that Clerks Grade-II having 3 years experience in that cadre and having educational qualification equivalent to Matriculation or examination from any recognised Board of examination are entitled to get promotion as Clerk Grade-I. The concerned workman admittedly have been working as Clerk Grade-II since 1-1-83 and he has been working in Mohuda Washery since 14-3-84 in replacement of Shri H. S. Choudhury a Clerk Grade-I in Mohuda Washery, his case for re-

gularisation was earlier recommended by his immediate superior, the Project Officer of Mohuda Washery Project.

In view of these facts, circumstances and evidence on records I am constrained to hold that the claim of the concerned workman for regularization as Clerk Grade-I is justified and the management should take up his case for consideration immediately.

Accordingly the following Award is rendered :—

"The action of the management of Mohuda Washery of BCCL, P. O. Mohuda, District Dhanbad in denying regularization of Shri Nityanand Sahay as Clerk Grade-I is not justified. The management is directed to take up the case of the concerned workman for regularization as Clerk Grade-I with immediate effect."

In the circumstances of the case I order no cost.

S. K. MITRA, Presiding Officer  
[No. L-20012/125/88-D/II(A)/IR(Coal-I)]

का.प्रा. 226.—प्रीधोगिक विवाद अधिनियम, 1947 (1947 का 14) की घारा 17 के अनुसरण में, केन्द्रीय सरकार मैसर्स भारत कोकिं कॉल लि. की मुराइह कोलयरी के प्रबंधरात्व से सम्बद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट प्रीधोगिक विवाद में केन्द्रीय सरकार प्रीधोगिक अधिकारण (सं. 1) धनबाद के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 31-12-90 को प्राप्त हुआ था।

S.O. 226.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal No. 1 Dhanbad as shown in the Annexure in the industrial dispute between the employers in relation to the management of Muraidih Colliery of M/s. Bharat Coking Coal Limited and their workmen which was received by the Central Government on 31-12-90.

#### ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, DHANBAD

In the matter of a reference under section 10(1)(d) of the Industrial Disputes Act, 1947

Reference No. 40 of 1990

#### PARTIES :

Employers in relation to the management of Muraidih Colliery of M/s. B.C.C. Ltd.

AND

Their workmen.

#### PRESENT :

Shri S. K. Mitra, Presiding Officer.

#### APPEARANCES :

For the Employers—Shri B. Joshi, Advocate.

For the Workmen—Shri D. Mukherjee, Secretary Bihar Colliery Kamgar Union.

STATE : Bihar.

INDUSTRY : Coal.

Dated, the 17th December, 1990

#### AWARD

By Order No. L-20012/156/89-I R (Coal-I), dated the 12th February, 1990, the Central Government in the Minis-

try of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2-A) of Section 10 of the Industrial Disputes Act, 1947, referred the following dispute for adjudication to this Tribunal :

"Whether the action of the management of Muraidih Colliery of M/s. B.C.C. Ltd., P.O. Nawagarh, Distt. Dhanbad in not giving the protection of group wages of Shri Dukhan Mia, Pump Operator w.e.f. 1-12-82 is justified? If not, to what relief is the concerned workman entitled to?"

2. The reference of the present industrial dispute was received in the office of this Tribunal on 20-2-1990. In response to the notice issued by this Tribunal, the management of Muraidih Colliery of M/s. B.C.C. Ltd. appeared through its Advocate Shri B. Joshi and the sponsoring union, Bihar Colliery Kamgar Union, through its Secretary Shri D. Mukherjee.

Shri D. Mukherjee took several adjournments for filing written statement in this dispute, but ultimately he submitted that he did not have any instruction in pursuing with the dispute further.

In the circumstances, I have reason to believe that neither the sponsoring union nor the concerned workman, Shri Dukhan Mia, is interested in pursuing the present industrial dispute.

Hence, I am constrained to pass 'no dispute' award in this case.

This is my Award.

S. K. MITRA, Presiding Officer  
[No. L-20012/156/89-I R(Coal-I)]

का.प्रा. 227.—प्रीधोगिक विवाद अधिनियम, 1947 (1947 का 14) की घारा 17 के अनुसरण में, केन्द्रीय सरकार मैसर्स भारत कोकिं कॉल लि. की कुसुमा आरा के प्रबंधरात्व से सम्बद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट प्रीधोगिक विवाद में केन्द्रीय सरकार प्रीधोगिक अधिकारण, (सं. 1) धनबाद के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 31-12-90 को प्राप्त हुआ था।

S.O. 227.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal No. 1 Dhanbad as shown in the Annexure in the industrial dispute between the employers in relation to the management of Kusunda Area of M/s. Bharat Coking Coal Limited and their workmen which was received by the Central Government on 31-12-1990.

#### ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, DHANBAD

In the matter of a reference under Section 10(1)(d) of the Industrial Disputes Act, 1947

Reference No. 159 of 1988

#### PARTIES :

Employers in relation to the management of Kusunda Area No. VI of M/s. B.C.C.L.

AND

Their workmen.

#### PRESENT :

Shri S. K. Mitra, Presiding Officer.

#### APPEARANCES :

On behalf of the employers—Shri B. Joshi, Advocate.

On behalf of the workmen—Shri D. Mukherjee, Secretary, Bihar Colliery Kamgar Union.  
STATE : Bihar INDUSTRY : Coal  
Dated, Dhanbad, the 14th December, 1990.

## AWARD

By Order No. L-20012/58/88-D.III(A)/D.IV(A), dated, the 29th November, 1988, the Central Government in the Ministry of Labour, has, in exercise of the powers conferred by clause (d) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947 referred the following dispute for adjudication to this Tribunal :

"Whether the demand of Bihar Colliery Kamgar Union Dhanbad for Excavation Gr-B to S/Sri Hardeo Rewani and Rajendra Choudhary, Dumper Operators (operating 35 T. capacity) is justified? If so, to what relief the concerned workmen entitled to?"

The case of the sponsoring union, Bihar Colliery Kamgar Union, as disclosed in the written statement details apart, is as follows :—

The concerned workmen S/Shri Hardeo Rowani and Rajendra Choudhury have been working as Dumper Operators since long with unblemished record of service. Both of them were operating the Dumper of 35T capacity. S/Shri R. K. Pandey, Rambilas Prasad, Kailash Rajak, Salabh Chandra Mochi and others have been getting Excavation Grade-B wages. They have represented before the management for Excavation Gr-B wages on the ground of performing the same and similar nature of job. They are active members of Bihar Colliery Kamgar Union and it is alleged that the local management are very much biased and prejudiced against the members of this union. Despite several representation of the concerned workmen, the local management refused to settle the issue. In the circumstances the sponsoring union raised an industrial dispute before the ALC(C). The conciliation proceeding ended in failure due to recalcitrant attitude of the management. The appropriate Government has been pleased to refer the dispute for adjudication before this Tribunal. In the context of these facts and circumstances, the sponsoring union claims that the management be directed to pay the concerned workmen Grade-B wages with effect from the date when the other workmen were allowed Grade-B wages for performing same an dissimilar nature of job.

The case of the employers in relation to the management of Kusunda Area No. VI of M/s. BCCL as disclosed in the written statement briefly stated is as follows :—

The present reference is not maintainable. The Dumper Operators are initially appointed in Ex-Grade-D. The promotional channel of Dumper Operators is from Grade-D to Grade-C and from Grade-C to Grade-B and such promotions are offered according to the norms fixed for the excavation workmen. Rajendra Choudhury was put in Excavation Grade-D with effect from 21-2-84 whereas the other concerned workmen Hardeo Rewani was put in that grade with effect from 25-6-1985. None of them has yet been promoted to Grade-C and so the question of promoting them to Grad. B does not arise. The concerned workmen demanded promotion from Grade-D to Grade-B and cited examples of S/Sri R. K. Pandey, Kailash Rajak and Gulab Chandra who were promoted from Grade-B to Grade-D. They were in Grade-C in March, 1982 on which date the concerned workmen were not even in Grade-D what to speak of Grade-C. Appreciating the inherent weakness of their demand, the concerned workmen claimed that they have been performing the same nature of jobs as other Dumper Operators are doing. But this argument is fallacious since the minimum grade for Dumper Operator is Grade-D which they have been getting. According to the management the demand of the sponsoring union has got no foundation and must perforce founder on the ground.

The case was fixed on 7-12-90 for filing rejoinder by the parties. Appearing for the sponsoring union Shri D. Mukherjee, the authorised representative has submitted that he is not interested in pursuing the case and so order may be passed accordingly to law.

Since the sponsoring union is not interested in pursuing the case I am constrained to pass a "No dispute" Award in the present industrial dispute.

S. K. MITRA, Presiding Officer  
[No. L-20012/58/88-D.III(A)/IR(Coal-J)]

का अ. 228.—भारतीय किंवद्धि अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसार में, केंद्रीय सरकार, मैसेस भारत कोकिंग कॉल एवं की भारत कॉल वार्सी के प्रबन्धदाता से सम्बद्ध नियोजकों द्वारा उनके कर्मकारों के बीच, भारतीय में निर्दिष्ट भारतीय किंवद्धि अधिकार में निर्दिष्ट भारतीय किंवद्धि अधिकार के पैचपट को प्रकाशित करती है, जो केंद्रीय सरकार को 31-12-90 को प्राप्त हुआ था।

S.O. 228.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal No. 1, Dhanbad as shown in the Annexure in the industrial dispute between the employers in relation to the management of Mohuda Coal Washery of M/s. Bharat Coking Coal Limited and their workmen which was received by the Central Government on the 31-12-1990.

## ANNEXURE

## BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1 AT DHANBAD

In the matter of a reference under Section 10(1)(d) of the Industrial Disputes Act, 1947

Reference No. 26 of 1989

## PARTIES :

Employers in relation to the management of Mahuda Coal Washery of M/s. B.C.C.L.

AND

Their workmen.

## PRESENT :

Shri S. K. Mitra, Presiding Officer.

## APPEARANCES :

On behalf of the employers—Shri B. Joshi, Advocate.

On behalf of the workmen—Shri Surendra Pd., Area Secretary, R.C.M.S. Union.

STATE : Bihar

INDUSTRY : Coal

Dhanbad, the 21st December, 1990

## AWARD

By Order No. I 20012/19/88-D.IV (A), dated, the 10th March, 1989, the Central Government in the Ministry of Labour, has in exercise of the powers conferred by clause (d) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947 referred the following dispute for adjudication to this Tribunal :—

"Whether the management of M/s. BCCL in relation to its Mohuda Coal Washery is justified in denying regularisation of Shri Kedar Singh, as Despatch Clerk Gr. II w.e.f 15-3-1984 with all attendant benefits? If not, to what relief the workmen is entitled to?"

The case of the management of M/s. B.C.C.L. in relation to Mohuda Coal Washery, as disclosed in the W.S., details apart is as follows :—

The present reference is not legally maintainable. Shri Kedar Singh the concerned workman is a Helper attendant at Mohuda Washery and does not possess Matriculation or equivalent certificate to qualify for consideration for his appointment in Clerical cadre. The Matriculation or equivalent qualifica-

tion is absolutely necessary for holding a clerical post as per Cadre Scheme formulated by JBCCL. The local management showed favour to the concerned workman in 1984 and allotted him some clerical duties without obtaining approval from the Head of Department. He maintained diaries, despatch of letters and did filling work. He did not carry on the work of despatch of coal which is main and substantial duties of despatch clerk in a Colliery and the Despatch Clerk is placed in Clerical Grade-II. It is necessary for a workman to possess educational qualification sufficiently for efficient discharge of duties in order to reconsider for change of cadre from time rated category to Clerical cadre. A person may be able to maintain Peon Book or diary and may despatch letters and file the papers, but he cannot be suitable for the jobs of correspondence, accounting, procurement of wagons, and despatch of coal to destination etc. The concerned workman may be suitable for the job of despatch on Peon Book but he cannot be suitable for the job of Despatch Clerk. In the circumstances, the demand of the Union for regularisation as Despatch is not unreasonable but also against the cadre scheme of the JBCCL.

The case of the concerned workman, as disclosed by the Sponsoring Union RCMS in the Written Statement, details a part, is as follows :—

At the High Power Central Consultative Committee meeting held between the management of BCCL and different union on 6-7-1976, it was agreed that the workers working in higher categories for more than 6 months should be regularised. Shri Kedar Singh, Helper Attendant at Mohuda Washery was given written instruction by the Manager (O and M) by letter dated 15-3-84 to work as Despatch Clerk and since that date he has been doing the job satisfactorily. He has been working against permanent post of Despatch Clerk for more than 6 months; he applied for regularisation on number of times citing High Power Committee's decision. But nothing came out of such representation. Consequent upon failure of all his efforts to get response from the management, he approached the union for justice. The Area Secretary of the sponsoring union, Area No. II sent representation to the management to resolve the issue. Since nothing came out of such representation, the matter was raised in conciliation where the union was agreeable to resolve the dispute by arbitration. But the inflexible attitude adopted by the management thwarted all efforts of the ALC (C) and the union to resolve the dispute by mutual settlements. The ALC (C), Dhanbad sent his failure report of conciliation to the Ministry and the Ministry was pleased to make the following reference for adjudication by this Tribunal. In the circumstances, the union has prayed that the concerned workman be regularised in service as Clerk Gr-II and paid difference of wages as per his grade and other fringe benefits.

In the rejoinder to the W.S. of the sponsoring union the management has submitted that subsequent to nationalisation of Coal Mines steps were taken to bring uniformity as regards wages, categories, grades etc. throughout the Coal Industry. The workmen were fixed in proper category and groups. They were regularised in higher grades depending upon experience only. In that context the demand for regularisation came into process and from 1977 onwards various cadre schemes and rules of promotions were formulated specifying qualifications, experience, suitability etc. The procedure of regularisation became redundant after coming into force of the cadre scheme. Competent persons having necessary qualifications, experience and suitability etc. were regularised on higher grades without violating the cadre scheme. The management has denied that the concerned workman has been working as Despatch Clerk since 15-3-1984.

In the rejoinder to the W.S. of the management the sponsoring union has asserted that a number of workman has

been given clerical Grade-I pay scale who are not matriculate nor are they so qualified as the concerned workman. In this connection the case of S/Shri Anil Kumar Hazari, Bhawani Tewari and Banmali Hazari of Bhaidih Colliery of this particular area may be cited as examples. Anyway, the qualification cannot be a criteria in the instant case as the workman was doing the clerical job since long. It is a case of regularisation and not a case of new appointment. There is no definite job description for a Despatch Clerk. The JBCCL did not formulate the job description upto 1988 and the demand relates back to 1984. The union has also stated that the first cadre scheme was formulated by the BCCL itself sometime in 1976-77. The said cadre scheme also envisage that qualification will not be a bar for graduation, promotion etc. if a person is suitable otherwise for the post.

The management, in order to justify its action has examined only one witness namely MW-1 Shri B. Lakra who has been working in the Personnel department of Mohuda Area since July, 1983 and now posted as Dy. Personnel Manager. The management, however, did not adduce any documentary evidence. On the other hand the sponsoring union has examined three witnesses namely WW-1 Shri Kedar Singh the concerned workman, WW-2 Shri Anil Kumar Hazari and WW-3 Shri Upendra Singh and laid in evidence a sheaf of documents which have been marked Ext. W-1 to W-3.

Admittedly, Shri Kedar Singh, the concerned workman was earlier working as Helper Attendant in Mohuda Washery. It is the firm case of the sponsoring union that as per a written instruction issued by the Manager (O and M) by letter dated 15-3-84 the concerned workman was deployed to work as Despatch Clerk and since then he has been doing this job satisfactorily. The management has denied that the concerned workman has been working as Despatch Clerk since 15-3-84 or that he has been performing his job satisfactorily.

The concerned workman has stated in his testimony that he has been working as Clerk in Mohuda Washery with effect from 15-3-84 after being authorised in this behalf. He has further stated that he has been continuously doing the job of Despatch Clerk since 15-10-84. The sponsoring union has produced the office order dated 15-3-84 issued by the Manager (O and M) Mohuda Washery Project directing the concerned workman to do the following office work on his existing pay and other terms and conditions of service, (1) Diary and despatch work of all papers, (2) Filing work of all papers—Ext. W-2. This evidence unmistakably establishes the fact that the concerned workman, although designated as Helper Attendant was deployed for duty by the Manager (O and M) Mohuda Washery Project as Clerk.

The management has contended that minimum qualification of Matriculation is absolutely necessary for holding a clerical post as per Cadre Scheme formulated by JBCCL. It has been further contended by the management that the local management showed favour to the concerned workman in 1984 and allotted some clerical duties without obtaining permission of the Head of the Department. MW-1 Shri B. Lakra presently posted as Dy. Personnel Manager in Mohuda Area has stated that matriculation is an essential qualification to get an appointment in any layer of clerical cadre and that the General Manager of the Area is having absolute control over cadre control affairs and without having his permission any workman cannot be posted to a particular cadre or up-graded from one cadre to another. There is no evidence on record to indicate that the General Manager of the Area was not aware of the order by the Manager (O and M) Mohuda Washery Project deploying the concerned workman to work in Clerical cadre. There is also no evidence on record to indicate that the General Manager has ever disapproved of the order of the Manager of Mohuda Washery Project. The management over all the years has utilised the services of the concerned workman as clerk. This being the position it is not fair on the part of the management to contend that his deployment for duties on clerical cadre is not proper.

It now remains to be considered whether Matriculation is an essential qualification for all the employees to get appointment in any layer of clerical cadre. Implementation Instruction No. 34 dated 17-7-84 under NCWA-III framing

cadre scheme for ministerial staff on general clerical cadre envisages that matriculation or equivalent qualification is the minimum qualification for appointment in any layer of clerical cadre. Para 3.4 of said instruction envisages that the existing incumbents who do not possess the minimum qualification as laid down in the cadre scheme will not be eligible for further promotion is per the line of promotion unless they obtain the minimum qualification but by subsequent implementation instruction No. 40 dated 5-12-84 this paragraph was deleted and was replaced by the following paragraph :—

"(iv) Educational qualification will not be a bar for promotion of the existing employees upto the post of Clerk Grade-I in Clerical Grade-I"

Thus it is seen that the provision for minimum qualification as laid down in the cadre scheme is no longer a bar for the existing employees upto the post of Clerk Grade-I in Clerical Grade-I.

Shri B. Lakra, MW-1 has stated that it is not a fact that during 1983 workmen not being matriculate were regularised in clerical cadre but on his admission photostat copy of settlement arrived at between the management and the Area Secretary of RCMS, Mohuda Area Committee dated 10-11-87 was admitted in evidence as Ext. W-1 and it reflects a different position. In terms of this settlement S/Shri Anil Kumar Hazari, Bhawtaran Rewari and Bannamali Hazari, Munshi, Fan Khalasi respectively was regularised as Attendance Clerk in Clerical Grade-II with immediate effect. Shri Anil Kumar Hazari has figured as WW-2 in the present dispute. He has stated that they were earlier working as Munshi but later started to work as Attendance Clerk and so their services were regularised as Attendance Clerk and that none of the 3 of them are matriculate. Thus the position is clinched that some workmen working in different cadre were regularised in Clerical cadre Grade-II although they were not matriculate in 1987 by the same management of Mohuda Washery.

Now I will consider whether the concerned workman has been working as Despatch Clerk in Mohuda Washery or not.

It is the firm statement of the sponsoring union in W.S. that the concerned workman has been working against a permanent post of Despatch Clerk. The management has not disputed that there exists a permanent post of Despatch Clerk in Mohuda Washery. Even so the management has disputed that the concerned workman had been working as Despatch Clerk and stated that a person may be able to maintain Peon Book or diary and may despatch letters and file the papers but he may not be suitable for the jobs of correspondence, accounting and procurement of wagons, despatch of coals to destination. The management has admitted that the concerned workman maintain Diary, Despatch of letters etc did filing works but he did not carry on duties of despatch of coal which is main and substantial duties of Despatch Clerk in a Colliery.

Neither the Central Coal Wage Board Recommendation nor the NCFAs provide any job description for Despatch Clerk. Even as per evidence of MW-1 Shri B. Lakra the duties of Despatch Clerk are to (i) despatch letters, (ii) receive letters, (iii) to record the entries in the Peon Book with respect to letters received and despatched and (iv) to file letters etc. The concerned workman has stated that he has been continuously doing the job of Despatch Clerk since 15-10-84 and that in course of his duties he has to perform the following jobs :—

- (i) Despatch of letters
- (ii) To receive letters.
- (iii) Filing work and
- (iv) To keep and maintain all papers relating to despatch work, whenever coal is despatched.

The concerned workman by office order dated 15-3-84 was directed to perform the following jobs :—

- (i) Diary and despatch work of all papers.

(ii) Filing work of all papers.

By subsequent Office order dated 2-2-90 he was directed to do the following jobs :—

- (i) Letter receipt and despatch,
- (ii) Filing of daily report

WW-2 Anil Kumar Hazari has stated that the concerned workman has been working as Despatch Clerk in Mohuda Washery. WW-3 Upendra Singh has stated that the concerned workman has been working in the office of Mohuda Washery as Despatch Clerk and that in the course of performance of his duty he is to despatch letters and file letters.

Central Coal Wage Board Recommendation and NCFAs provide clerical staff grading and nomenclature which include Despatch Clerk, Loading Clerk and Asstt. Loading Clerk. In view of the evidence on record and staff grading and nomenclature it does not appear that the duties relating to despatch of coal is the main and substantial duties of a Despatch Clerk. On the other hand, from the evidence on record it appears that the concerned workman has been essentially doing the duties relating to despatch and other matters. Since there is no bar to his being regularised in Clerical Grade-II or the score of education qualification as I have pointed out above and since he has been doing the clerical job of Clerk Grade-II ever since 15-10-84 under the direction of the management, I am constrained to hold that his is entitled to be regularised as Clerk Grade-II not with effect from 15-3-84 but from 15-10-84 with all attendance benefits from that date.

Accordingly the following Award is rendered :—

"The management of M/s. BCCL in relation to its Mohuda Coal Washery is not justified in denying regularisation of Shri Kedar Singh as Despatch Clerk Grade-II with effect from 15-10-84 (not from 15-3-84) with all attendant benefits. The management is, therefore, directed to regularise the concerned workman Shri Kedar Singh as Clerk in Grade-II with effect from 15-10-84 with all attendant benefits"

In the circumstances of the case I award no cost.

S. K. MITRA, Presiding Officer

[L-20012/19/88-D. IV (A)]IR (Coal-1)]

का आ 229—प्रौद्योगिक विवाद अधिनियम, 1947 (1947 का 14) का धारा 17 के अनुसार मैं, नेतृत्व सम्भाल, सौम्यम भारत कोकिंग कोल लि की बासुरिया कोलनगरी के प्रबन्धनक से सबकु निवेदित और उनके कर्मकारों के बीच, अनबंध में निर्दिष्ट प्रौद्योगिक विवाद में केन्द्रीय सरकार प्रौद्योगिक अधिकरण, (म. 1) घनबाद के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 31-12-90 को प्राप्त हुआ था।

S.O. 229—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal No. 1 Dhanbad as shown in the Annexure in the industrial dispute between the employers in relation to the management of Bassuriya Colliery of M/s. Bharat Coking Coal Limited and their workmen which was received by the Central Government on the 31st December, 1990.

#### ANNEXURE

#### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, DHANBAD

In the matter of a reference under section 10(1)(d) of the Industrial Disputes Act, 1947  
Reference No 119 of 1990

#### PARTIES :

Employers in relation to the management of Bassuriya Colliery of Kusunda Area of M/s. BCCI.  
AND

Their Workmen.

## PRESENT :

Shri S. K. Mitra, Presiding Officer.

## APPEARANCES :

For the Employers—Shri B. Joshi, Advocate.

For the Workmen—None.

STATE : Bihar.

INDUSTRY : Coal.

Dated, the 17th December 1990

## AWARD

The present reference arises out of Order No. L-20012|136|88-I.R. (Coal-I), dated 10th May, 1990 passed by the Central Government in respect of an industrial dispute between the parties mentioned above. The subject matter of the said dispute has been specified in the schedule to the said order and the said schedule runs as follows :—

बया राष्ट्रीय कोसियरी भजदूर संघ की यह मांग कि श्री दिल्केश्वर राम का अडार प्राउन्डर्सी के रूप में बासियरा कोसियरी द्वारा नियमितकरण नहीं किए जाने का कारबाह उचित है यदि नहीं तो कर्मकार फिर अमुतोष का अधिकारी है ?

2. The dispute has been settled out of Court. A memorandum of settlement has been filed in Court. I have gone through the terms of settlement and I find them quite fair and reasonable. There is no reason why an award should not be made on the basis of terms and conditions laid down in the memorandum of settlement. I accept it and make an award accordingly. The memorandum of settlement shall form part of the award.

2. Let a copy of this award be sent to the Ministry as required under section 15 of the Industrial Disputes Act, 1947.

S. K. MITRA, Presiding Officer  
[No. L-20012|136|88-I.R. (Coal-I)]

K. J. DYVA PRASAD, Desk Officer

BEFORE THE PRESIDING OFFICER, CENTRAL GOVERNMENT, INDUSTRIAL TRIBUNAL NO. I AT

## DHANBAD

Reference Case No. 119|90

Employee in relation to the management of Bussuriya Colliery of Kusunda Area, BCCL.

AND

Their Workmen.

## Petition of Compromise

The humble petition on behalf of the parties to the above reference most respectfully shewth :—

1. That the dispute has been amicably settled between the parties on the following terms :—

## Terms of Settlement

A. That the concerned workman, Shri Dilkeshwari Ram will be regularised as Munshi in Clerical Gr. III w.e.f. the date of reference of the case of the Tribunal on 10th May, 1990.

B. That in view of the above settlement there remains nothing to be adjudicated.

## Part of the Award

Under the above facts and circumstances, the Honourable Tribunal will be graciously pleased to accept the settlement as fair and proper and be pleased to pass Award in terms of the settlement.

## For the Workmen :

1. Dilkeshwari Ram.  
2.

## For the Employers :

(U. S. Singh),  
General Manager,  
Kusunda Area.  
(S. P. Singh),  
Personnel Manager,  
Kusunda Area.

## WITNESS

नई दिल्ली, 7 जनवरी, 1991

का. आ. 230—आधिकारिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय भरकार भारतीय जीवन विमा नियम के प्रबंधतात्र के सम्बद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निश्चित आधिकारिक विवाद में लेवर कोर्ट इरनाकुलम के विचार को प्रकाशित करती है, जो केन्द्रीय भरकार को 26-12-90 को प्राप्त हुआ था।

New Delhi, the 7th January, 1991

S.O. 230.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Labour Court, Ernakulam as shown in the Annexure in the Industrial dispute between the employers in relation to the Life Insurance Corporation of India and their workmen, which was received by the Central Government on 26-12-90.

## ANNEXURE

## IN THE LABOUR COURT, ERNAKULAM

Wednesday, the 19th day of December, 1990  
PRESENT :

Shri R. Raveendran, B.A., B.L., Presiding Officer.

Industrial Dispute No. 11|90(C)

## BETWEEN

The Management of Life Insurance Corporation of India, represented by the Sr. Divisional Manager, LIC of India, Divisional Office, Jeewan Prakash, P. B. No. 177, Kozhikode-673001.

## AND

Their workmen represented by the General Secretary, LIC Employees Union, LIC Buildings, Kozhikode-673001.

## AWARD

The Industrial Dispute between the above parties was referred to this Court by the Government of India, Ministry of Labour, New Delhi as per Order No. L-17012|13|89-I.R.B. I|B II dated 29th June 1990. The issue covered by the reference is the following :—

“Whether the allegation of the LIC Employees Union, Kozhikode that the management of LIC of India has violated the promotion rules and has discriminated against Shri P. E. Krishnan Nambodiri in the matter of appointment to the post of programmer is

justified? If so, to what relief the workman concerned is entitled to?"

2. When the case was first posted for the appearance of parties the Union was absent. Hence registered notice was issued to the Union posting the case for their appearance. But in the meanwhile the Union filed a petition before this court stating that Shri P. E. Krishnan Namboodiri (the workman concerned in the dispute) has since been promoted by the Management on 31-7-1990 as Programmer Grade II and so the dispute raised by the Union is withdrawn. In view of this development I hold that no industrial dispute exists now between the parties to be adjudicated upon. An award is passed accordingly.

Ernakulam,  
19-12-1990.

R. RAVEENDRAN, Presiding Officer  
[No. L-17012/13/89-IR.B(II)]

का. आ 231--शास्त्रीय विवाद प्राधिकारियम 1947 (1947 का 14) का वारा 17 के अनुसरण में, केन्द्रीय मरकार पश्चात नेशनल बैंक के प्रबन्धने के सम्बद्ध नियोजितों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट शास्त्रीयिक विवाद में केन्द्रीय सरकार शास्त्रीय प्रधिकार, नई बिली के पंचपट को प्रकाशित करता है, जो केन्द्रीय मरकार का 26-12-90 को प्राप्त हुआ था।

S.O. 231.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, New Delhi as shown in the Annexure in the Industrial dispute between the employers in relation to the Punjab National Bank and their workmen, which was received by the Central Government on 26-12-90.

#### ANNEXURE

BEFORE SHRI GANPATI SHARMA, PRESIDING OFFICER, CENTRAL GOVT. INDUSTRIAL TRIBUNAL, NEW DELHI

I.D. No. 52/87

In the matter of dispute between

Shri Kushi Ram, through,  
The General Secretary,  
All India Hindustan Commercial  
Bank Employees Congress,  
8/75, Arya Nagar, Kanpur,

Versus

The General Manager (Personnel),  
Punjab National Bank,  
Head Office,  
Bhikhaji Cama Place,  
New Delhi,

through,  
The Manager (Industrial Relations),  
Head Office,  
Punjab National Bank,  
New Delhi.

#### APPEARANCES :

Shri J. C. Dewan with the workman.

Shri A. K. Saxena—for the Management.

#### AWARD

The Central Government in the Ministry of Labour vide its Order No. L-12012/62 86-D.IV(A) dated 25-6-87 has re-

ferred the following industrial dispute to this tribunal for adjudication :—

'Whether the action of the management of Hindustan Commercial Bank (now Punjab National Bank) in terminating the services of Shri Khushi Ram w.e.f. 8-8-1985 is justified? If not, to what relief is the workman entitled?'

2 In the statement of claim the workman alleged that he was appointed by the Management of Hindustan Commercial Bank to perform the duties of a clerk/cashier on 26-11-84 on a permanent vacancy caused due to retrenchment of about 20 employees known Home Deposit Collectors at the different branches of the Bank. The Management did not issue any letter of appointment on or after 26-11-84 in contravention of the provisions of the Shastry Award. He completed more than 240 days within 12 consecutive months as such he was in continuous service of the bank within the meaning and scope of Section 25-B of the Industrial Dispute Act. The Management bank did not maintain any muster roll and the work done by the workman may be treated as muster roll in the absence of any such record of his attendance. He requested the Management to regularise him in the permanent service but the management of the bank instead of acceding to his request terminated him from the service on 8-8-85, arbitrarily without giving any notice of termination in violation of the provisions of the Shastry Award. He was neither paid any retrenchment compensation. The Act of the Management was unfair and against lawful Trade Union activities and the order of Termination dated 8-8-85 deserve to be set aside with retrospective effect. The Hindustan Commercial Bank was merged with Pb. National Bank under Central Govt. Notification No. 926 dated 18-12-86.

3. The Management in its reply alleged that the claim of the applicant was not maintainable and the union namely All India Hindustan Commercial Bank Employees Congress has no locus standi to espouse the cause. The workman was never appointed as a clerk or cashier by the Management. He was engaged by the erstwhile Hindustan Commercial Bank as Home Deposit Collector on commission basis and his Agency was terminated w.e.f. 26-11-86 to which he had no grievance whatsoever. After that period he had no relation with the bank. The question of his having completed 240 days in 12 consecutive months do not arise as claimed by him in para 2-3 and of his statement of claim. As per provision of the Shastry Award and established practice the proper appointment letter was being issued by the Competent Authority to all those who were called upon to work as temporary employees and in the absence of any such appointment letter no presumption could be drawn that the workman was appointed by the management. He was never appointed nor paid any salary and it cannot be believed that a person would go on working without any salary for such a long time. In fact Shri Kushi Ram in connivance with other staff members at Shamli branch had made some unauthorised entry in the bank record as admitted by him in his letter dated 3-9-85 and he tendered apology for his unauthorised action. The management had to close his saving fund account to restrict his entry to the bank. Hence there is no force in his statement of claim which deserves to be rejected. The Management in support of its evidence examined Shri R. K. Jain, Manager while the workman produced Amar Nath Gupta WW1 and himself as WW2.

4. I have heard representative for the parties and have gone through the record carefully. The Management representative in his arguments has urged that the claim made by the workman was absolutely incorrect. No appointment letter was ever issued to him nor was he ever appointed as Clerk-cum-Cashier in the bank. The alleged entries as stated by the workman and also shown in the joint inspection note were unauthorised entries which would never make him a clerk of the bank. He was originally working as Home Deposit Collector on Commission basis and that Agency of his was also terminated w.e.f. 26-11-84. Had he been appointed as a Clerk he would have been issued a letter immediately upon the date of his appointment. The mere fact that he has made entries in connivance with some other staff members of the branch would not make him a clerk of the bank because as a Home Deposit Collector he had

access to the branch and friendly to the branch staff. Regular seats were allocated to the staff members and the entry shown by the workman in the joint inspection note pertain to different seats and not to any particular seat which could show the continuity of his work or his posting on a specific seat. No attendance was ever marked nor any leave etc. was ever sanctioned and for no purpose he was under the control of the Management. Under these circumstances the workman could not be treated to be as an employee of the Hindustan Commercial Bank and the question of his reinstatement did not arise.

5. The representative for the workman on the other hand strongly urged that no management would allow any outsider to make unauthorised entries in any of its records which are very valuable as far as a institution like bank is concerned. The joint inspection report shows that from 26-11-84 upto 8-8-85 there were entries in the different records made by the workman which only shows that he was working as a clerk in the bank and he remained on the assurance of the bank manager that he would get a regular appointment letter and regular salary. Neither the salary was paid to him nor the letter was issued and he was turned out of the bank without any justification. No formal order of termination was passed nor communicated to the workman and as such he was deemed to be in continuous service of the bank and entitled to reinstatement with full back wages and seniority etc. The non-issuance of the appointment letter was a violation of the Shastry Award. The letter dated 3-9-85 allegedly got written from the workman was under coercion and as such had no meaning. That letter should not be accepted and this fact had been proved by Amar Nath Gupta WWI that he had gone to the bank and Khushi Ram was sitting terrified alongwith the Manager in his cabin. It was on that day that the alleged letter was got written from him. He has thus urged that since the workman has worked, that is made entries in the books of accounts of the management regularly from 26-11-84 to 8-8-85 and as such was a regular employee of the bank and entitled to get the salary of the clerk/cashier from the date of his appointment till date with order of reinstatement and full back wages.

6. A perusal of the evidence produced in this case and the arguments addressed by the representative for the parties show that the workman was originally working as Home Deposit Collector and his Agency was terminated on 26-11-84. This fact has not been stated by the workman in his statement of claim. No letter of appointment was ever issued by the management to the workman and it cannot be believed that a workman would continuously go on working in any organisation like a bank without having got any appointment letter and not having been paid any salary for a continuous period of 8-9 months. Organisations like banks have a regular system of recruitment and even before the amalgamation of Hindustan Commercial Bank with Punjab National Bank some procedure must have been adopted by the bank authorities for the recruitment of staff. A person who works as a Home Deposit Collector has access to the branch record and it has been observed that such Agents make entries of their deposits in their own hand in the bank registers. After the termination of his agency he being familiar with the staff or having offered his assistance to that staff in their day to day working he might have been visiting the bank and making such entries in the record. Making of entries in the record would not make a person an employee of a particular organisation. The assertion of the workman in his statement of claim in para I that he was appointed by the Management to perform permanently the duties of a clerk w.e.f. 26-11-84 on permanent vacancy has no legs to stand upon. No appointment on permanent vacancy and on permanent basis can be in the manner stated by the workman in his statement of claim. The question of the termination of his services and payment of any retrenchment compensation or notice, therefore, did not arise at all. There is yet another important aspect of this case i.e. letter Ex. M2 dated 3-9-85 which has been admitted by the workman representative as correct. In this letter he has admitted that whatever little work he has done in the bank books was done by him at his own desire and not at the asking of the bank officials. He had been coming to the bank from time to time and due to his acquaintance with the staff he used to help them. He further stated in that letter that the bank officers had asked him not to do so or to sign the vouchers. He did not sign the vouchers

at that time and later on after having got an opportunity he signed them. He further stated that he was sorry for what he had done. This document Ex. M2 was never referred to by the workman as having been got written from him under coercion in this statement of claim. When his letter was produced by the Management he tried to disprove it by stating that under threat and terror this letter was got written from him. He also introduced on a Amar Nath as witness to show that he saw the workman sitting in the cabin of the Manager in terrified condition on that particular date. The last entry as per inspection note is dated 8-8-85 while this letter is dated 3-9-85. If the workman had been working regularly in the bank he could have written to the higher Authorities for the issuance of appointment letter and for payment of his salary and also to the effect that he was threatened to write letter Ex. M-4. Nothing of the sort was done by him. In view of my discussion above I am of the opinion that without going into the details of the technical aspects of the merger of Hindustan Commercial Bank into Punjab National Bank which in fact stands proved from the notification issued of the Government of India I am of the view that since the workman was never employed as a clerk by the erstwhile Hindustan Commercial Bank so the question of his termination/retrenchment did not arise. He was not entitled to any reinstatement or retrenchment compensation of any kind. Taking in view a particular circumstances of the case I leave the parties to bear their own costs of those proceedings.

Further it is ordered that the requisite number of copies of this award may be forwarded to the Central Government for necessary action at their end.

27th September, 1990.

GANPATI SHARMA, Presiding Officer

[No. L-12012/62/86-D. 4(A)]

V. K. VENUGOPALAN, Desk Officer

नई दिल्ली, 10 जनवरी, 1991

का. पा. 232.—कर्मचारी राज्य बीमा अधिनियम, 1948

(1948 का 34) की धारा 8 के प्रत्येक में नथा भारत सरकार के अम मंत्रालय की तारीख 8 जनवरी, 1988 की अधिसूचना संख्या का. पा. 293 का अधिक्रमण करते हुए, केन्द्रीय सरकार कर्मचारी राज्य बीमा नियम की स्वार्थ ममिनि गठित करती है जिसमें निम्नलिखित सदस्य होंगे, अर्थात् :—

#### प्रधान

[धारा 8 के धंड (क) के प्रधान केन्द्रीय सरकार द्वारा नियुक्त किए गये]

1. सचिव, अम मंत्रालय

भारत सरकार, नई दिल्ली।

#### मंत्रम

[धारा 8 के धंड (ख) के मध्येत नियुक्त करने वाला द्वारा । दाता । दाता। फॉर्म नं. ]

2. अपर सचिव, अम मंत्रालय,

भारत सरकार, नई दिल्ली।

3. प्रिस्टिय सलाहकार, अम मंत्रालय

भारत सरकार, नई दिल्ली।

4. केन्द्रीय खातिय निधि आयूक्त,

नई दिल्ली।

[धारा 8 के धंड (ख) के मध्येत नियम के मंत्रम जो केन्द्रीय राज्य सरकारों का प्रतिनिधित्व करते होंगे]

5. केन्द्र सरकार का प्रतिनिधित्व करने वाला नियम का मंत्रम।

6. उन्न प्रेषण सरकार का प्रतिनिधित्व करने वाला नियम का मंत्रम।

7. परिषद वंगाल सरकार का प्रतिनिधित्व करने वाला नियम का मंत्रम।

[धारा 8 के धंड (ग) के उपर्युक्त (ii) में अर्थीय नियम द्वारा निर्भावित।]

8. श्री डॉ. ही. पुरी, अध्यक्ष  
हड्डियन शूगर एण्ड जनरल इंजिनियरिंग कारपोरेशन  
पारस सिनेमा बिल्डिंग, मेहर एलेव्हन,  
नई दिल्ली ।

9. श्री पी. वी. दुगल,  
ई-222, न्यू राजेन्ट्र नगर, नई दिल्ली-110060

10. श्री एस. के. वधवान  
व-८ पंचमील इम्प्रेसरी, नई दिल्ली-110017  
(धारा ८ के खंड (ग) के उपखंड (iii) के अधीन नियम द्वारा  
निर्वाचित)

11. श्री जी सर्जिवा रेड्डा, अध्यक्ष,  
पाई.एन. डी.यू.सी. , आर्थिक प्रवेश,  
6-वी, लाईट अरक्षपुरा, हैवरावाड-500027

12. श्री राम भाऊ डॉ. जोशी  
३८, वासुदेव नगर, हैदराबाद-452004

13. श्री असन्त ए. खानोलकर, जनरल सेक्टरी,  
कैमिकल भविंदुर सभा, ११५, सत्यगीर सदन,  
वारा सहेल फाले रोड, वारा, मुम्बई-400014  
(धारा ८ के खंड (ग) के उपखंड (iv) के अधीन नियम द्वारा  
निर्वाचित)

14. डॉ. ए. जे. सेलत,  
२२३ ए, शिवाजी नगर, पू.एन.एम. जोशी मार्ग, मुम्बई ।  
(धारा ८ के खंड (ग) के उपखंड (५) के अधीन नियम  
द्वारा निर्वाचित)

15. श्री प्रसाद कुमार सामन्तराय  
संसद सभास (राज्य सभा)  
११२, घोड़िसा निवास, नई दिल्ली ।  
(धारा ८ के खंड (घ) के अधीन पर्वत सदस्य)

16. महा निवेशक कर्मचारी राज्य शिमा नियम, नई दिल्ली  
[सं. पू-१००१२/६/९०-एस. एस.-I]  
प्रशि जैन, संयुक्त नियम

New Delhi, the 10th January, 1991

S.O. 232.—In pursuance of section 8 of the Employees' State Insurance Act, 1948 (No. 34 of 1948) and in supersession of the Notification of the Government of India in the Ministry of Labour No. S.O. 293 dated the 8th January, 1988, the Central Government hereby constitute the Standing Committee of the Employees' State Insurance Corporation consisting of the following members: namely:—

**CHAIRMAN**

[Appointed by the Central Govt. under clause (a) of  
Section 8]

1. Secretary to the Government of India,  
Ministry of Labour,  
New Delhi.

**MEMBERS**

[Appointed by the Central Govt. under clause (b) of  
Section 8]

2. Additional Secretary to the Government of India,  
Ministry of Labour,  
New Delhi.

3. Financial Adviser,  
Ministry of Labour,  
Government of India,  
New Delhi.

4. Central Provident Fund Commissioner,  
New Delhi.

[Members of the Corporation representing the three  
State Governments under clause (b) of Section 8]

5. The Member of the Corporation representing  
the Government of Kerala.

6. The Member of the Corporation representing  
the Government of Uttar Pradesh.

7. The Member of the Corporation representing  
the Government of West Bengal.

[Elected by the Corporation under sub-clause (ii) of  
clause (c) of Section 8]

8. Shri D. D. Puri,  
Chairman,  
Indian Sugar and General Engineering  
Corporation,  
Paras Cinema Building,  
Nehru Place, New Delhi.

9. Shri P. B. Duggal,  
E-222, New Rajinder Nagar,  
New Delhi-110060.

10. Shri S. K. Wadhawan,  
B-6, Panchshil Enclave,  
New Delhi-110017.

[Elected by the Corporation under sub-clause (iii) of  
clause (c) of Section 8]

11. Shri G. Sanjeeva Reddy,  
President,  
I.N.T.U.C. Andhra Pradesh,  
6/B Light Baikatpura,  
Hyderabad-500027.

12. Shri Rambhau D. Joshi,  
38, Vasudev Nagar,  
Indore-452004.

13. Shri Vasant Khanekar,  
General Secretary,  
Chemical Mazdoor Sabha,  
115, Satyagili Sadan,  
Dadasaheb Phalke Road,  
Dadar, Bombay-400014.

[Elected by the Corporation under sub-clause (iv) of  
clause (c) of Section 8]

14. Dr. A. J. Shelat,  
225-A, Shivaji Nagar,  
N. M. Joshi Marg,  
Bombay.

[Elected by the Corporation under sub-clause (v) of  
clause (c) of Section 8]

15. Shri Pravat Kumar Samantaray,  
Member of Parliament (Rajya Sabha),  
112-Orissa Niwas,  
New Delhi.

(Ex-officio Member under clause (d) of Section 8)

16. The Director General,  
Employees' State Insurance Corporation,  
New Delhi.

[No. U-16012/6/90-SS. I]

SHASHI JAIN, Jr. Secy.

नई विल्ली, 11 जनवरी, 1991

का.प्रा. 233.—कर्मचारी राज्य बीमा अधिनियम, 1948 (1948 का 34) की धारा 1 की उपधारा (3) धारा प्रवत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एवंद्वारा 16-1-91 को उस तारीख के रूप में नियम करती है, जिसको उक्त अधिनियम के अध्याय 4 (धारा 44 और 45 के सिवाय जो पहले ही प्रवृत्त की जा चुकी है) और अध्याय 5 और 6 [धारा 76 की उपधारा (1) और धारा 77, 78, 79 और 81 के सिवाय जो पहले ही प्रवृत्त की जा चुकी है] के उपरन्त तमिलनाडु राज्य के निम्नलिखित भौति में प्रवृत्त होंगे, अर्थात् —

क्रमांक	राजस्व प्राप्ति	तालुक	जिला
1. धारापुरम	धारापुरम	पेरियार	
2. वीरामो मंगलम	धारापुरम	पेरियार	
3. कोलिन्जी बाडी	धारापुरम	पेरियार	
4. कोलाथु वलायम	धारापुरम	पेरियार	
5. मानकका डाकू	धारापुरम	पेरियार	
6. डालावै पटनम	धारापुरम	पेरियार	
7. चित्तारावृथमपलायम	धारापुरम	पेरियार	
8. थोप्पामपट्टी	धारापुरम	पेरियार	
9. नन्जायमपलायम	धारापुरम	पेरियार	

[संख्या एस-3801/3/191-एस एस-II]

New Delhi, the 11th January, 1991

S.O. 233.—In exercise of the powers conferred by sub-section (3) of Section 1 of the Employees' State Insurance Act, 1948 (34 of 1948), the Central Government hereby appoints the 16th January, 1991 as the date on which the provisions of Chapter IV (except sections 44 and 45 which have already been brought into force) and Chapters V and VI [except sub-section (1) of sections 76, 77, 78, 79 and 81 which have already been brought into force] of the said Act shall come into force in the following areas in the State of Tamil Nadu namely :—

Sl. No.	Revenue Villages	Taluk	District
1. Dharapuram	Dharapuram	Periyar	
2. Veerajimangalam	Dharapuram	Periyar	
3. Kolinjivadi	Dharapuram	Periyar	
4. Kolathupalayam	Dharapuram	Periyar	
5. Manakkadavu	Dharapuram	Periyar	
6. Dalavai-pattnam	Dharapuram	Periyar	
7. Chittaravuthampalayam	Dharapuram	Periyar	
8. Thoppamatti and	Dharapuram	Periyar	
9. Nanjayampalayam	Dharapuram	Periyar	

[No. S-38013/1/91-S.S.I]

का.प्रा. 234.—कर्मचारी राज्य बीमा अधिनियम, 1948 (1948 का 34) की धारा 1 की उपधारा (3) धारा प्रवत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एवंद्वारा 16-1-91 को उस तारीख के रूप में नियम करती है, जिसको उक्त अधिनियम के अध्याय 4 (धारा 44 और 45 के सिवाय जो पहले ही प्रवृत्त की जा चुकी है) और अध्याय 5 और 6 [धारा 76 की उपधारा (1) और धारा 77, 78, 79 और 81 के सिवाय जो पहले ही प्रवृत्त की जा चुकी है] के उपरन्त तमिलनाडु राज्य के निम्नलिखित भौति में प्रवृत्त होंगे, अर्थात् —

क्रमांक	राजस्व प्राप्ति	केन्द्र	तालुक	जिला
1.	विश्वाम बैल (मेल विश्वाम)	मेलविश्वाम	बल्लाजहा	नार्थ आरकोट अम्बेडकर
2.	विलपक्कम	मेलविश्वाम	बल्लाजहा	नार्थ आरकोट अम्बेडकर
3.	नन्दियालम	मेलविश्वाम	बल्लाजहा	नार्थ आरकोट अम्बेडकर
4.	कुरामबाडी	मेलविश्वाम	बल्लाजहा	नार्थ आरकोट अम्बेडकर
5.	कथियाबाडी	मेलविश्वाम	बल्लाजहा	नार्थ आरकोट अम्बेडकर
6.	वेपूर	मेलविश्वाम	बल्लाजहा	नार्थ आरकोट अम्बेडकर

[संख्या एस-38013/3/91-एस 1)]

S.O. 234.—In exercise of the powers conferred by sub-section (3) of Section 1 of the Employees' State Insurance Act, 1948 (34 of 1948), the Central Government hereby appoints the 16th January, 1991 as the date on which the provisions of Chapter IV (except sections 44 and 45 which have already been brought into force) and Chapters V and VI [except sub-section (1) of sections 76, 77, 78, 79 and 81 which have already been brought into force] of the said Act shall come into force in the following areas in the State of Tamil Nadu, namely :—

Sl. No.	Revenue Village	Centre	Taluk	District
1.	Visharam (MEL) (Melvisharam)	Melvisharam	Wallajah	North Arcot Ambedkar
2.	Villapakkam	Melvisharam	Wallajah	North Arcot Ambedkar
3.	Nandiyalam	Melvisharam	Wallajah	North Arcot Ambedkar
4.	Kurambadi	Melvisharam	Wallajah	North Arcot Ambedkar
5.	Kathiavadi	Melvisharam	Wallajah	North Arcot Ambedkar
6.	Veppur	Melvisharam	Wallajah	North Arcot Ambedkar

[No. S-38013/3/91-S.S.I]

का.प्रा. 235.—कर्मचारी राज्य बीमा अधिनियम, 1948 (1948 का 34) की धारा 1 की उपधारा (3) धारा प्रवत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एवंद्वारा 16-1-91 को उस तारीख के रूप में नियम करती है, जिसको उक्त अधिनियम के अध्याय 4 (धारा 44 और 45 के सिवाय जो पहले ही प्रवृत्त की जा चुकी है और अध्याय 5 और 6 [धारा 76 की उपधारा (1) और धारा 77, 78, 79 और 81 के सिवाय जो पहले ही प्रवृत्त की जा चुकी है] के उपरन्त तमिलनाडु राज्य के निम्नलिखित भौति में प्रवृत्त होंगे, अर्थात् —

गिराय जो पहले ही प्रवृत्त की जा चुकी है] के उपर्युक्त वर्गीकरण में  
निम्नलिखित क्षेत्र में प्रवृत्त होंगे, भवति । —

राजस्व ग्राम का नाम व नगर  
पालिका सीमाये होकरी नालूक जिला

गोकक ग्राम, गोकक नगर-  
नगर पालिका सीमा के एक  
किलोमीटर के बायरे में  
मर्यादण मण्डण 262/1, 472/2,  
260, 259/1, 250, 472/1,  
471/1+2, 473, 262/2 (भी)  
262/2 (ए), 263/2 (ए) और  
259

1  
(Survey Nos. 262/1,  
472/2, 260, 259/1, 250,  
472/1, 471/1+2, 473,  
462/2(B), 262/2(A), 263/1(A)  
and 259

[No. S-38013/56/90-S.S.I.]

का आ 236—कर्मचारी राज्य बीमा अधिनियम, 1948 (1948  
का 34) की धारा 1 की उपधारा (3) द्वारा प्रदत्त शक्तियों का प्रयोग  
करते हुए, केन्द्रीय सरकार एतद्वारा 16-1-91 को उम्मतारीक के रूप में  
नियन्त करती है, जिसको उक्त अधिनियम के अध्याय 4 (धारा 44 और  
45 के सिवाएं जो पहले ही प्रवृत्त की जा चुकी है) और अध्याय 5  
और 6 (धारा 26 की उपधारा (1) और धारा 77, 78, 79 और 81  
के सिवाएं जो पहले ही प्रवृत्त की जा चुकी है) के उपर्युक्त नियन्तानालूक  
राज्य के निम्नलिखित क्षेत्र में प्रवृत्त होंगे, भवति । —

“चेन्नायमपट्टू जिले में मद्रास के उपनगरीय केन्द्र में भाने यान  
मैदानेर क्षालूक में सीधा राम राजस्व ग्राम”।

[मुद्रा एस-38013/2/91-एस एस-I]

ए के भट्टराई, अवर मंजिल

S.O. 235.—In exercise of the powers conferred by sub-section (3) of Section 1 of the Employees' State Insurance Act, 1948 (34 of 1948), the Central Government hereby appoints the 16th January, 1991 as the date on which the provisions of Chapter IV (except sections 44 and 45 which have already been brought into force) and Chapters V and VI [except sub-section (1) of Sections 76, 77, 78, 79 and 81 which have already been brought into force] of the said Act shall come into force in the following areas in the State of Karnataka, namely:—

Name of the Revenue village or Municipal Limits	Hobli	Taluk	District
1	2	3	4
Gokak village within 1 Km. from Gokak Town Municipality Limits	Gokak	Gokak	Belgaum

Revenue village of Seevaram in Saidapet Taluk in Madras  
Suburbs Centre in Chengalpattu District.

[No. S-38013/2/91-S.S.I.]

A K BHATTARAI, Under Secy.

